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John McGowan, LLB, BA

**THE EMERGENCE OF MODERN CIVIL POLICE IN  
SCOTLAND: A CASE STUDY OF THE POLICE  
AND SYSTEMS OF POLICE IN EDINBURGHSHIRE  
1800 - 1833**

**Thesis Submitted For The Degree Of Doctor Of Philosophy**

**The Open University  
Department of History**

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## ABSTRACT

*The Police in Britain have been a focus for academic research over a number of decades but there is a dearth of historic authority about the service north of the border. Lack of information is lamentable, for Scotland through its own legal institutions entrenched in the Treaty of Union, has developed a distinct system of criminal justice and a Police service with unique democratic features.*

*Prior to the Union of the Crowns, the crowner in Scotland was the local enforcement officer under the direction of the Sheriff who apart from administrative functions, was responsible for maintaining law and order in the Shire. James VI introduced Justices of the Peace and constables in Scotland by legal transplant. As the metropolis, Edinburgh had constables appointed from 1611 before an APS in 1617 led to their introduction throughout the kingdom. For almost two centuries the traditional role and responsibilities of constables north and south of the border, developed along similar lines but under different forms of judicial control and direction. Whereas in England local judicial autonomy lay with JP's, in Scotland their legal status remained below that of the Sheriff in the shire and the Bailies in burgh towns.*

*Despite the popular myth that modern Police was established by the London Metropolitan Police Act in 1829, this thesis describes how the salient features of the modern civil Police and system of police developed earlier in Scotland, primarily through a series of local Edinburgh Police Acts obtained in 1805, 1812 and 1822. On the premise that modern Police are a full time paid Force; bureaucratically organised under an operational command and control structure separate from judicial direction; and subject to both the rule of law and democratic accountability, the efforts of Patrick Colquhoun as a Police reformer were more tangible in early 19<sup>th</sup> century Edinburgh than London or indeed Dublin.*

*Although subsidiary themes such as local financing, internal management, use of informants, prisoner care and even the purpose of the uniform in a preventive Police regime are considered, the thesis concludes under a revisionist explanation that modern Police emerged as a logical outcome of the perceived need for more effective law enforcement and wider order maintenance, consequential to the process of urbanisation. Necessity coupled with increased wealth, eventually undermined resistance to introduce new local financial burdens in other areas, hence the introduction of the new Police was piecemeal and uneven throughout Britain during the 19<sup>th</sup> century.*

## Contents

<b>Contents.....</b>	<b>i</b>
<b>Table Of Figures .....</b>	<b>iv</b>
<b>Abbreviations.....</b>	<b>v</b>
<b>Introduction .....</b>	<b>1</b>
<b>Chapter One - State Of Edinburgh And Edinburghshire In The Scottish Context .....</b>	<b>5</b>
Background .....	5
Political Perspective .....	6
Economic Perspective .....	9
Social Prespective .....	13
Location And Population .....	18
City Of Edinburgh .....	23
Town Of Leith .....	41
The Rural Shire .....	44
Influence Of National Government.....	50
<b>Chapter Two - Criminal Justice And Existing Police And Systems Of Police Circa 1800.....</b>	<b>53</b>
Background .....	53
National Court With Criminal Jurisdiction.....	53
Local Courts With Criminal Jurisdiction.....	56
Old Police And Systems Of Police.....	63
City Constables.....	64
City Guard .....	68
Act Of 1771 For The Southern Districts.....	73
Act Of 1772 For The Burgh Of Canongate .....	74
Town Of Leith .....	76
Parish Constables In The Shire.....	79
Other Systems Of Social Control .....	82
Law And Order Prior To 1805 .....	84
<b>Chapter Three - The New Police And Systems Of Police 1805 To 1812.....</b>	<b>93</b>
Background .....	93
The 1805 Act For Regulating The Police Of The City Of Edinburgh .....	96
Commissioners Of Police .....	99
Superintendant Of Police And The Police Court.....	103
The Inspectors Of Police.....	107
The Constables, Officers Of Police And Watchmen.....	111
The Reduced City Guard .....	117
Administration Of The 1805 Act .....	119
The 1805 Force In Operation .....	125
The City Constables.....	128
Town Of Leith .....	129
Law And Order.....	137
The Demise Of The 1805 Police And System Of Police.....	146



## **Chapter Four - The New Police And Systems Of Police 1812 To 1822..... 157**

Background .....	157
The 1812 Act For Regulating The Police Of The City Of Edinburgh .....	159
Commissioners Of Police .....	162
The Superintendant And The New Lieutenants Of Police .....	170
Other Officers Of Police And Watchmen .....	178
Administration Of The 1812 Act .....	183
The 1812 Force In Operation .....	193
The 1816 And 1817 Amendment Acts.....	198
The Demise Of The City Guard .....	203
The City High Constables .....	205
Town Of Leith .....	206
Parish Constables.....	211
Law And Order.....	212
The Dilemmas For Police Under The 1812 Act .....	219
Tory And Whig Struggles Over Reform Of The 1812 Act .....	224

## **Chapter Five - The New Police And System Of Police 1822-1833..... 229**

Background .....	229
The 1822 Act For Regulating The Police Of The City Of Edinburgh .....	231
Commissioners Of Police .....	235
The Superintendent And Lieutenants Of Police .....	239
Other Officers Of Police And Watchmen .....	243
Administration Of The 1822 Act.....	249
The 1822 Force In Operation .....	260
The 1826 Amendment Act .....	266
Society Of High Constables Of The City Of Edinburgh.....	267
Town Of Leith.....	269
Justice Of The Peace Court And County Constables .....	275
Law And Order.....	277
The Edinburgh Police And System Of Police Model.....	283

## **Chapter Six - Comparative Developments Elsewhere In The United Kingdom Of Great Britain And Ireland With Conclusions..... 285**

Comparative Context.....	285
London Metropolis .....	286
Dublin Metropolis.....	294
Glasgow .....	298
Conclusions On The Emergence And Influence Of The Edinburgh Police And System Of Police..	301

<b>References .....</b>	<b>i</b>
Introduction.....	i
Chapter One - State Of Edinburgh And Edinburghshire In The Scottish Context .....	ii
Chapter Two - Criminal Justice And Existing Police And Systems Of Police Circa 1800 .....	xiv
Chapter Three - The New Police And Systems Of Police 1805 To 1812.....	xxiv
Chapter Four - The New Police And Systems Of Police 1812 To 1822 .....	xxxiv
Chapter Five - The New Police And System Of Police 1822-1833 .....	xlili
Chapter Six - Comparative Developments Elsewhere In The United Kingdom And Conclusions .....	xlix
<b>Bibliography .....</b>	<b>liv</b>
<b>Appendix A - Map of Edinburgh circa 1832 .....</b>	<b>lxiii</b>
<b>Appendix B - Map of Leith circa 1812.....</b>	<b>lxiv</b>
<b>Appendix C - Map of Edinburghshire circa 1833 .....</b>	<b>lxv</b>

## Table Of Figures

Figure 1A - Location Of Edinburghshire .....	19
Figure 1B - Parishes In Edinburghshire.....	20
Figure 1C - Demographic Age Profile In Edinburghshire 1821 .....	22
Figure 1D - Lord Provosts Of Edinburgh 1800 - 1833.....	25
Figure 1E - Shire Profile Of Heritors, Schools, Public Houses & Poor Claiming Relief .....	49
Figure 1F - Table Of Landed Representation .....	50
Figure 1G - Members Of Parliament Elected 1800 - 1833.....	51
Figure 2A - Senior Judiciary 1800-1833 .....	55
Figure 2B - Lord Advocates 1800-1833.....	56
Figure 3A - Inspectors Under The 1805 Act .....	108
Figure 3B - Establishment of Serjeants and Watchmen (1805-1812) .....	114
Figure 3C - Suspensions Between 1805 and 1812 .....	116
Figure 3D - Ward Clerks Under The 1805 Act.....	120
Figure 3E - Outstanding Rates Arrears under 1805 Act.....	124
Figure 3F - Profile of Edinburgh Police Court Book (1805-1807).....	138
Figure 3G - Savings in Expenditure Introduced in 1807 .....	147
Figure 4A - Annual Election of Residential Commissioners.....	165
Figure 4B - Fluctuations in Establishment Strength in 1813-1814 .....	181
Figure 4C - Establishment Manpower 1813-1822.....	181
Figure 4D - Brooms Allegedly Purchased 1813-1819 .....	185
Figure 4E - Rental Values, Rates, Assessments and Revenues 1812-1822 .....	189
Figure 4F - Establishment Expenditure 1813-1822 .....	190
Figure 4G - Number of Person Prosecuted in the Police Court 1812-1820 .....	214
Figure 4H - Number of Persons Prosecuted for Serious Crimes (1812-1822) .....	215
Figure 5A - Yearly Rents Profile for 1820-1821 .....	232
Figure 5B - Establishment Manpower 1822- 1832 .....	245
Figure 5C - Police Establishment Salaries & Wages (1828) .....	246
Figure 5D - Rental Values, Rates, Assessments and Revenues 1822-1832 .....	251
Figure 5E - Establishment Expenditure 1822 - 1832 .....	251
Figure 5F - Leith Police Establishment (1827) .....	273
Figure 5G - Committals to Prison 1821 to 1827 .....	278
Figure 5H - Number of Persons Prosecuted for Serious Crime (1822-1833).....	279

**ABBREVIATIONS**

APS	Acts of Parliament of Scotland
EP	Edinburgh Police
ETC	Edinburgh Town Council
JC	Justiciary Court
JP	Justice of the Peace
LP	Leith Police
NLS	National Library of Scotland
NSA	The New Statistical Account of Scotland
PP	Parliamentary Papers
SAS	The Statistical Account of Scotland
SRO	Scottish Record Office

# THE EMERGENCE OF MODERN CIVIL POLICE IN SCOTLAND: A CASE STUDY OF THE POLICE AND SYSTEMS OF POLICE IN EDINBURGHSHIRE 1800 - 1833

## INTRODUCTION

Apart from a few popular Force histories and academic articles, there is a dearth of publications on the emergence of the modern civil Police and system of police in Scotland.<sup>1</sup> The essential features of the new Police are of a full time paid Force, bureaucratically organised with a command structure, and tasked to 'guard, patrol and watch' in uniform so as to prevent crime, detect offenders and maintain public order. As a functional organisation with specific roles and responsibilities in society, a more important feature of modern Police is the extent to which they are accountable, primarily to the law and judicial control, and secondly to another network of political, economic and social demands. Whereas the old Police were both directed and controlled by Magistrates exercising judicial functions, the new Police are essentially directed by their own hierarchical command structure and controlled by the rule of law and democratic accountability.

Many texts on Police history in England and Wales, especially those which convey the so-called Whig interpretation, create an impression that the Metropolitan Police Act of 1829 constituted the most significant departure from the old Parish Constable and watch system, by establishing a new and hitherto unknown model of 'preventive' Police that was eventually transplanted to other parts of Great Britain.<sup>2</sup> Given the lack of authority, there is a widely shared view that the historic development of the new Police in Scotland was but a delayed version of what occurred south of the border. The fact is however, that much earlier in the 19<sup>th</sup> century, several local initiatives were taken in Scotland to depart from the various systems of police which had co-existed since the 17<sup>th</sup> century, and these local initiatives laid the foundation of what is regarded as the modern civil Police and system of police.

As an institution, the Police is only one of a number of Governmental systems engaged in social administration and control. However as Alan Williams astutely observed, the Police 'are, in a sense, a society's eyes permanently fixed on itself'.<sup>3</sup> This means that any study of the Police ought to involve reference to the wider setting of its peculiar society. Unfortunately this dimension is almost forgotten in standard historical texts which invariably adopt a top-down or

overview approach to institutional structures. Lack of historical research into the Police at local level is lamentable because the instrument par excellence for surveying local variants of social administration and control has been ignored.

Within the constitutional framework the Police have an integral role in maintaining the rule of law, even although society generally polices itself. However social historians until recently have tended to concentrate on judicial and penal institutions which appear to have shaped the criminal justice system. This narrow view on the role of the Police in Scotland can be inferred from the wealth of literature on the development of Scots criminal law and procedure which focus on issues of substantive law, on aspects of trial and post-trial procedures, or indeed on the polemics of penal policy. Within the spectrum of criminal justice in Scotland which bridges a significant proportion of social administration and control, review of pre-trial action is confined to the exercise of police powers which are likely to infringe civil liberties, rather than on the seemingly mundane Police organisational structures and methods.

More generally, the myth that the modern civil Police and system of police in Scotland was somehow imported from a more enlightened society, has been given credence by the fact that after the accession of James VI to the English throne, Scotland acquired the offices of Justice of the Peace and Parish Constable by legal transplant. Again there has been an assumption that these officials exercised the same range of administrative and legal functions as their counterparts in England and Wales. Such an assumption is flawed, for although increasingly subordinated after the Union of 1707 in matters political and economic, Scotland nevertheless through a separate legal system, sustained distinct systems of social administration and control late into the 19<sup>th</sup> century. Justices of the Peace in Scotland did not gain the same degree of power as they held under the English systems of social administration and criminal justice. They were subordinate to the office of Sheriff and the resultant diffusion of power lead to different outcomes in terms of social administration and criminal justice north of the border.<sup>4</sup>

At a pragmatic level beyond nationalist sentiment, the purpose of this thesis is to fill a gap in local knowledge. Focusing on Edinburghshire for the period 1800 to 1833, the emergence of the formal legislative structure of the new Police and system of police will be described against the contemporary political, economic and social background. At the same time, the central

characters involved in the emerging structure and their respective roles will be identified in order to examine more closely the changing relationship between the new Police and existing judicial and political authority. With reference to a range of Police related topics such as recruitment, training, procedures, powers and accountability, major concerns of the period will be considered. By such means, relatively simple questions as who were the new Police, how were they organised, and what was their purpose will be sketched. As the framework of the new system of police emerges, several subordinate themes will attempt to locate the role and primacy of the Police in relation to other local government services, outline the emergence of these other services over the same period against the background of other major issues of the time, such as the struggle for parliamentary and municipal reform.<sup>5</sup>

After comparison with contemporaneous Police and systems of police elsewhere in Britain, at a more abstract level, an attempt will be made to explain why the modern civil Police and system of police in Scotland emerged in the form that it did. In particular reference will be made to existing models of explanation relating to the need for the new Police. Thus did the new Police emerge according to the so-called Whig interpretation, to replace ineffective Parish Constables and check a rising tide of crime and lawlessness brought about by increasing urbanisation. Or did the new Police emerge according to a structuralist interpretation, that is, as an instrument of emerging class power due to increasing industrialisation.<sup>6</sup> In this horse shoe spectrum of models, with the Whig view at one extreme and the structuralist view at the other there are of course a number of revisionist views.<sup>7</sup> As with any investigation however, the difficulty of analysis involves interpretation of facts and recognition of fiction, before coming to terms with the results. The mistake most often made by historians is over-generalisation which is almost inevitable in a 'top-down' analysis. There is no doubt 'that changing ideas and social structures played a crucial role in the development of police forces; but so too did pragmatism, compromise, self-interest and the historical traditions of individual states'.<sup>8</sup> Simply put, particular conclusions ought to follow peculiar findings and these will be considered in the final chapter.

Having indicated that the broad purpose of modern civil Police is to maintain 'law and order' it is important to clarify the term. There is of course a nexus between the enforcement of law - that is the prevention and detection of crime committed against persons and property; and the

maintenance of public order - whether it be threats to citizens in the street or threats to the State as represented by local or national constitutional arrangements. However from an analytical viewpoint, the enforcement of law mostly involves the protection of individual rights in society no matter social status, whereas the maintenance of order mostly involves the protection of collective rights in society. The nexus which links purely individual with collective rights in society is the tranche of 'welfare' type legislative offences created by necessity through the process of urbanisation.<sup>9</sup> Since the Police are called upon to both enforce individual rights and maintain collective rights, it has to be determined whether the new civil Police at the beginning of the 19<sup>th</sup> century in Edinburgh was created primarily to protect individual rights following the Whig interpretation or collective rights as claimed by the structuralist interpretation.

Finally attention has to be drawn to the word 'police' for it is used in two senses throughout this dissertation. Whereas today and increasingly more common during the 19<sup>th</sup> century, the Police came to mean an organisational Force undertaking specific roles and responsibilities in society, throughout the 18<sup>th</sup> century and for some considerable time after, the word 'police' also had a generic meaning. The wider sense has been traced back to the Greek word 'politeia' which linked all matters affecting the survival and well-being of the State.<sup>10</sup> Following the more restricted meaning of 'internal administration' under Roman law, it has been noted that the word 'police' was used in Scotland much earlier than in England.<sup>11</sup> Even at the beginning of the 19<sup>th</sup> century the so-called Commissioners of Police first appointed by Queen Anne in 1714, continued to function in advisory capacity to the Lord Advocate in matters pertaining to the central Government of Scotland.<sup>12</sup>

So when reference is made to a 'system of police' this means a range of services, notably watching, lighting and cleansing, undertaken to enhance the safety and well-being of citizens. If on the other hand reference is made to 'the Police', this means the actual police officers, sometimes termed watchmen, peace officers or constables, who had the specific function to 'guard, patrol and watch' so as to prevent crime, detect offenders and maintain public order. As will become evident, the Police in early 19<sup>th</sup> century Scotland were regarded as an integral part of a system of police embracing other essential local services, which were all designed to improve public safety and welfare of the community.



## Chapter One - STATE OF EDINBURGH AND EDINBURGHSHIRE IN THE SCOTTISH CONTEXT

### BACKGROUND

Between 1800 and 1833, Scottish society encountered an interplay of political, economic and social changes of a magnitude probably not hitherto experienced. Assessing the sociological impact of these changes is precarious and falls within the province of political, economic and social historians. It need only be remembered that whilst change can be substantial over time, most will have been incremental or evolutionary in nature. Yet within the wider context of continuity, such thematic changes provide the general conditions whereby new institutions in society can emerge. More recent scholarly studies on Scottish society have concluded that during this period the route to modernisation in Scotland differed fundamentally from that in England, and this chapter will explore this premise to establish what was distinctive in Scotland, particularly in Edinburgh and Edinburghshire.<sup>1</sup>

Circumscribing change in society by time and place can never be satisfactory because knowledge of other events both within and outwith the time frame and locality must be presumed. So for example, although political pressures for parliamentary and municipal reforms surge during this period, the indications are that 'it is with the momentous upheaval in France that the political awakening of Scotland begins'.<sup>2</sup> The dilemma of ignoring interconnected changes outwith a time frame and locality is exemplified in relation to economic development. Thus in relation to the Industrial Revolution in Scotland which was in full swing during this period, it has been stressed that:

It must not be imagined on that account that Scotland broke out of one, rural, traditional world and stumbled into a new, industrial, technological one overnight. From 1780 onwards her swelling towns and expanding industries gave a new dynamic rhythm to economic life: But, within those towns, more people lived even in 1830 by traditional craft methods than by the technology of steam and factory.<sup>3</sup>

Even against the broader backcloth of social change, it is known that the legacy of logic and reason which pervaded the natural and social sciences during this period, was inherited from the previous era more commonly referred to as 'The Scottish Enlightenment'.<sup>4</sup> Despite the difficulty of limited time frames in historical investigations, it is necessary to outline the conceptual framework and identify the political, economic and social paradigms of the period.

Since the emergence of the modern Police and system of police is so vast a subject, it makes sense to focus enquiry on a particular time and place in order to discover the peculiar pressures and reason for change. In this regard, Edinburgh as the metropolis of Scotland has always been at the heart of Scottish affairs and the remaining shire comprised a substantial rural hinterland by way of contrast. After considering the political, economic and social perspectives, the salient features of Edinburgh and the shire will be outlined to provide the focus. The aim is to convey the lasting impression that in early 19<sup>th</sup> century society, basic local services had been in existence and regulated for some time. Indeed in an urban centre like Edinburgh, an affluent lifestyle in a relatively safe environment was sought by many, whilst deprivation with concomitant social consequences was assured for others.

## POLITICAL PERSPECTIVE

The key theme within the political perspective of the period, was the emergence of 'representative democracy' within parliamentary and municipal institutions. Although party politics in the modern sense had yet to fully develop, there were other signs of movement towards a more democratic society. Lawrence Saunders in his seminal study of *Scottish Democracy 1815 - 1840*, adopts an unusually wide definition which on the one hand emphasises 'a wide range of opportunity open to individual talent and enterprise and consequently a social mobility opposed to the privilege and fixity of an ancient regime'; along with another which is 'distinguished by the quality of living as well as livelihood.' Whilst he showed how these two positions were compatible in the first half of the 19<sup>th</sup> century in Scotland, other than the outcome of the 1832 Reform Act, he failed to chart

earlier developments in 'representative democracy' especially by the election of local Police Commissioners in Edinburgh and Glasgow.<sup>5</sup>

The political circumstances prevailing in 1800 when he entered the Faculty of Advocates, is described by Henry Cockburn in his *Memorials*. He affirmed that for almost twenty years following the French Revolution 'literally everything, was soaked in this one event.' However despite the Revolution and its effects in Britain:

Scottish Jacobinism did not exist.

But Scotch Toryism did, and with a vengeance .....

This party engrossed almost the whole wealth, and rank, and public office, of the country, and at least three fourths of the population. They could have afforded, therefore, to be just and well-tempered. But this, as it appeared to them would have endangered their supremacy.

After the rebellion of 1745, the central Government of Scotland lay with a succession of Lord Advocates. Of these, the most accomplished and powerful was Henry Dundas, whose term in Government offices spanned from 1775 until his impeachment in 1805. According to Cockburn, Henry Dundas (later Lord Melville) was the 'absolute dictator of Scotland' and, 'Government was the master of nearly every individual in Scotland, but especially in Edinburgh, which was the chief seat of its influence'.<sup>6</sup>

Although by 1800 Whigs were fairly influential south of the border, in Scotland according to Cockburn, 'the real Whigs were extremely few.' The distinguishing *raison d'être* of the Scottish Whigs was none too obvious. Self-interest had converted some people, and terror even more. The residue comprised a group of stronger minded individuals with rational opinions who with the risk of political prosecution had parliamentary reform as their main objective. At the beginning of the 19th century, Henry Erskine was the leader of a small number of trained lawyers and advocates including Cockburn (some of whom became judges) and only a handful of influential persons with Whig tendencies could be found in other professions. Unfortunately the Whig term in office during the 1806 'Ministry of All-the-Talents' led by Erskine in Scotland was short lived, and younger Whig talent like Henry Brougham, Frances Horner and Frances Jeffrey were still to develop into political

prominence. Despite his pessimism and vindictive view of Scottish Toryism, Cockburn himself accepted the non-political post of Advocate Depute in 1807 urged 'solely from family connections' from his uncle, Lord Melville. Despite the economic and social changes of the period the Whigs remained out of Government between 1807 and 1830 primarily due to their instinct against allying themselves with anti-Reformers.<sup>7</sup>

Given the prevailing power of the Tories in Scotland during this period, it comes as no surprise that popular political protest was fairly subdued. Generally, the Whigs represented a growing number of middle ranks in Scottish society who were conscious of power being retained by the landed classes and hence advocated parliamentary and burgh reforms by an extended franchise. Although the Whig sponsored Edinburgh Review appeared in 1802, it was more 'a literary than a political organ' and only with the arrival of the Scotsman newspaper was there a declared overt object 'to bring all the forces of liberalism into line.' It has therefore been concluded that 'Whig politicians managed to hold out the prospect of political change through constitutional means and to satisfy the aspirations of many of the politically aware'.<sup>8</sup>

However there were occasions when Whig aspirations coincided with more popular political protest. Events in France did stir people to demand radical reform and events like the Kings Birthday riot in June 1792 caused anxiety to the local Edinburgh establishment. Of more widespread concern to central Government were the Societies of Friends of the People which formed in 1792 in Edinburgh and elsewhere in Scotland seeking equal representation of the people in Parliament and a frequent opportunity to exercise their right of election. They were popular and democratic, because subscriptions were kept low and there were no social barriers to membership. Less popular and more sinister was the Society of United Scotsmen, an underground organisation modelled on the United Irishmen, which emerged in 1797 with the subversive aim to further the cause of Jacobinism and took the opportunity to orchestrate popular protest against the Militia Act. In the final analysis, 'a combination of coercion and concession by the public authorities in Scotland effectively eradicated the popular pressures for political change by the first decade of the nineteenth century'.<sup>9</sup>

## ECONOMIC PERSPECTIVE

The key themes within the economic perspective of the period are threefold and interconnected. They are concerned with the improvements in agricultural and food production in rural areas; the increase in population and degree of urbanisation; and the increasing pace and extent of industrialisation, particularly in some of the large towns in Scotland. As a consequence of these processes, by 1800 both Edinburgh and Glasgow had experienced similar urbanisation although the productive economy of each significantly differed. Whilst Edinburgh was and remained the dominant financial centre, Glasgow was and continued to develop as the dominant industrial centre for Scotland.

As regards the improvements in agricultural methods and food production, Professor Smout in his *History Of Scottish People 1560 - 1830* emphasised the role of the benevolent land owning 'improvers' during the 18th century. New husbandry along with a wider choice of vegetables and potatoes not only led to a better Scottish diet and healthier population but also prevented 'demographic disasters' during grain crop failures in 1795, 1799, 1800, 1812 and 1816. Farming innovations were such that:

'Lothian husbandry' came to be held up for admiration in nineteenth-century England in much the same way as the Norfolk system had been copied and admired in eighteenth century Scotland.

Importantly however, the benefits of these improvements were recognised by contemporary interests like Sir John Sinclair and widely circulated.<sup>10</sup>

The increase in population and degree of urbanisation during this period in Scotland has been well chartered by Smout and more recently by Houston and Devine in their contributions to *People And Society In Scotland 1760 - 1830*. Census figures confirm that whilst the population grew in every region, there was a redistribution of population across Scotland. The increase in population was in fact very much greater in the central belt than either the north or the south of Scotland, and within the central belt, it was town population which grew at the greatest rate. Demographical studies have also confirmed that the rate of increase in population was highest in the first three decades of the 19th

century. Although the agrarian revolution was a precondition, the population growth thereafter can only be caused by an increase in the birth rate along with a decrease in the death rate; and/or by a net increase of immigrants over emigrants. In Scotland, the volume of Irish immigration increased noticeably after 1780, however the Scottish population increase was more associated with a sharp fall in death rates, rather (as in England) with a significant rise in fertility.<sup>11</sup>

Of greater economic and social consequence was the process of urbanisation which apart from population growth was caused by both migration and immigration. Whilst there was permanent and seasonal migration of people from the Highlands seeking Lowlands employment, this was dwarfed by Irish immigration which increased after 1780 and accelerated during the 1810's and 1820's. The process created additional economic demands in terms of housing and roads, water, lighting and sewage infrastructure, as well as other public service provisions. Scotland became one of the five most urbanised societies in Western Europe and according to Professor Devine:

The rates of town expansion achieved in Scotland between the censuses of 1801 and 1831 were the fastest of any period in the nineteenth century and raised the proportion of the population in towns of over 5,000 inhabitants from about one fifth to nearly one third of the Scottish total.

Whilst this rapid urbanisation created an industrial labour force, it also created strains on educational resources, poor relief provisions and health care as well as public order, which is partly the focus of this study.<sup>12</sup>

Whilst the evolutionary nature of industrialisation has already been noted, it is important to remember that its extent and impact varied enormously in different parts of Scotland. Although improved agricultural productivity sustained rapid population growth which in turn expanded indigenous industries, it was the prosperity of foreign trade, initially with tobacco routed through Glasgow, that facilitated the huge growth in linen and cotton textile manufacturing located in the west of Scotland. The importance of textile manufacturing was such that after drawing on figures published in 1825 by Sir John Sinclair in his *Analysis Of The Statistical Account*, Smout concluded that:

The orders of magnitude leave no doubt of the great dominance of cotton over all other textiles, or of the overwhelming primacy of textiles over everything else. Before the hot-blast discovery of 1828, the industrial revolution in Scotland even more than in England was little else than this revolution in textiles.

Alongside the economic benefits of increasing industrialisation however, was the development of economic phenomena that would remain more recurring and have adverse social consequences. Thus structural unemployment became more endemic after the Napoleonic Wars along with the experience of industrial recession in 1816, 1818, 1825 and 1836. Nevertheless, whilst a third of the population of Glasgow in the west was involved in manufacturing cotton textiles, this was in stark contrast to the metropolis in the east of Scotland.<sup>13</sup>

Edinburgh in 1800 was not only the ecclesiastical, legal and medical centre of the country, but also a thriving business community with a large population of 'bankers, professional men and capitalists.' According to Lawrence Saunders, 'until arrested by the economic crisis of 1825, the expansion of Edinburgh had been more conspicuous and more influential than even that of Glasgow.' Whilst the city had its own historic craft industries, it was also the centre of an extensive regional development which supported its economic demands. For example city breweries drew supplies of grain from the surrounding high farming shire, and a ring of coal-mining, paper-making and some textile manufacturing industries created a more mixed but nonetheless vibrant economy.<sup>14</sup>

Like London and Dublin by the end of the 18th century, Edinburgh was a well established financial centre which helped the development of industry in each country. A three tier system of banking had developed in Scotland which was not subject to the influence of the Bank of England. The three largest 'public' banks, the Bank of Scotland (1695), Royal Bank of Scotland (1727) and the British Linen Company (1746) were based in Edinburgh. A middle tier of 'private' banks tended to act as retailers of credit from the public banks and only the largest, Sir William Forbes, James Hunter and Company issued bank notes. Finally a lower tier of 'provincial' banking companies emerged to service local needs, as in

the case of Glasgow which became the centre of the British tobacco industry by conducting a large entrepot trade between the American colonies and France. The financial dominance was such that the public banks in Edinburgh controlled the vast majority of bank liabilities in the form of bank notes issued to the public in Scotland.<sup>15</sup>

As a thriving business community however, during the early decades of the 19th century Edinburgh which had a higher proportion of professional classes, was rivalled by Glasgow which developed a higher proportion of merchant and manufacturing classes. According to Smout:

In Edinburgh nearly one in three of all the entrants in the directory was a professional man, and one in eight a 'businessman': in Glasgow one in eight was a professional man, and one in three a 'businessman' - exactly the reverse proportions.

Thus although Edinburgh had a significant merchant class, in Glasgow the merchant class was twice as large. However these proportions were reversed in favour of Edinburgh in respect of professional classes involved in banking, education, law and medicine.<sup>16</sup>

The economic aspects of Edinburgh and her shire will be provided in more detail, but it is sufficient to note meantime the standard of living within the national trend. The professional classes especially lawyers and teachers, along with merchants were particularly affluent. However recent research into the earnings of the working classes has shown that compared to England, Scotland remained overall a low-wage country throughout the 1750-1850 period, but that distinctive Scottish patterns existed in relation to money wages. Whilst it is recognised that even by the 1790's, parts of Scotland had still not been fully assimilated into the market economy;

There is an extensive corpus of evidence which points to a rise in the real earnings of the bulk of the Scottish working class in contact with the market economy between 1760 and early 1790's; that the Napoleonic Wars yielded few gains and several losses to the majority of employees in the manufacturing and construction industries; and that between 1815 and 1830 the skilled labour force benefited greatly from tumbling prices.



Within those broad trends, Edinburgh printers improved their real earnings by 40% between 1773 and 1791; agricultural workers throughout Scotland moved upwards in real earnings by a more modest 1 % per annum between 1790 and 1810; and Edinburgh artisans increased their real earnings by 33% between 1816 and 1831.<sup>17</sup>

## SOCIAL PERSPECTIVE

The key themes within the social perspective of the period are twofold and arise as a consequence of the economic themes of urbanisation and industrialisation. Although the process of urbanisation created additional economic demands, along with the process of industrialisation it accelerated the stratification of hitherto homogeneous communities into classes. Despite the growing economy and increased wealth and prosperity, the benefits were uneven and inequalities arose especially between classes. Thus the first social theme examines the extent to which there was a separation of classes and class interest during this period; whilst the second social theme explores the extent of recognition of inequality and other adverse social consequences by secular and ecclesiastical society.

The process of acquiring a class position other than birth, involves an accumulation of wealth and an economic status in terms of income and power, but it also requires a 'class consciousness.' Although the acquisition of wealth was well established for many by the end of the 18th century, a 'class consciousness' was none too obvious. Recent research suggests that whilst there was an absence of a class position in the commentaries of the *Statistical Account*, by 1832 it was generally recognised that the Reform Act had enfranchised most of the middle classes. Whilst there is agreement on the period parameters for the emergence of a 'class consciousness', there is still debate over when and where the concept first arose in Scotland. Although Smout denies a clear working class consciousness by 1830, the use of the term 'lower classes' crept into reports on the provision of education much earlier, and there was considerable 'working class' support for the Radical War of 1820.<sup>18</sup>

The study par excellence into the social effects of urbanisation in Edinburgh prior to the 19th century was undertaken by R A Houston in *Social Change In The Age of Enlightenment, Edinburgh 1660-1760*. By examining the legal, administrative, social and ideological forces which structured the use of space in the city, Houston demonstrates how:

Edinburgh people were bound together by tangible and intangible links - including physical proximity, shared religious adherence, membership of occupational associations, common privileges, oaths and obligations - into one or more urban communities.

Specifically, the 1767 Act to extend the Royalty of the city, north and south of the ancient limits ultimately led to a divided society which alongside divisions of wealth and status, created conflict fissures in attitudes and ideas. Thus after 1767, the more tangible 'New Town' and 'George Square' in the Southern Districts developed a 'respectable well integrated community, economically comfortable and who participated in formal institutions of secular and ecclesiastical government'. Elsewhere, the inhabitants of the city workhouses, lesser artisans and labourers, and transient population became economic marginals. Citing the view of Youngson that the creation of the New Town destroyed the 'unity of social feeling', Houston presents a cogent and compelling case on how a physically divided Edinburgh society in the 18th century laid the foundations for a class divided society in the 19th century.<sup>19</sup>

Houston claims that there were signs of traditional homologous social relationships breaking down during the 1750's and 1760's with increased economic and social divisions. Whilst this may well be the case, the consequential pressures to manage the new 'dangerous classes' did not arise until much later. Importantly Houston identifies the building of the New Town in Edinburgh as 'a monument to prosperity and to changing ideas about architecture, environment and social values' and it is more likely that this physical development provided the underlying pressure for such change. The period 1760 - 1790 of course was the high point of 'The Scottish Enlightenment' which has been used to describe the extraordinary outburst of intellectual activity that took place in Scotland during the 18th century. The fact that many of the philosophers, scientists and literati

resided in the metropolis, led Tobias Smollet to observe that 'Edinburgh is a hotbed of Genius.' Those involved in 'changing ideas' particularly in respect of social values can conveniently be divided into secular and ecclesiastical moralists.<sup>20</sup>

During the 18th century age of improvement, the philosopher David Hume, the economist Adam Smith and the sociologist Adam Ferguson ranked as the most influential of the secular moralists. Hume in his *Treatise* (1748) emphasised the need for 'absolute security in private possession' of property, with the essential function of Government being to secure property and encourage industry. Ownership of property was the necessary precondition for regulating the scarcity of resources limited by nature and provided the incentive for individuals to make improvements. Whilst it was recognised that a diversion of some resources to Government would be necessary for justice, defence and certain public works, Hume believed that achieving the material aspirations of individuals motivated by self interest, would also create the virtue required of a citizen.<sup>21</sup>

Adam Smith was not only a great economist but also a moral philosopher. He appreciated that the emerging commercial society was unequal and even in his *Wealth Of Nations* (1776), he was concerned with social justice by 'finding a market mechanism capable of reconciling inequality of property with adequate provision for the excluded'. Whilst he believed that the essential function of Government was to 'protect property from the indignation of the poor,' his solution of competitive free markets in food and labour to guarantee adequate subsistence to the labouring poor was opposed to those who reckoned that within mercantilist regulation of the economy, Government should continue to 'police' the market in subsistence goods. More importantly Smith in the 1<sup>st</sup> edition of his *Theory Of Moral Sentiments* in 1759 wanted to create a progressive, polite and virtuous community and believed that this was best achieved through the 'sociability' inherent in the nature of man. According to his theory enabling such 'sociability' would lead to the stoic virtue of self command, which would create civil and social order. Unfortunately the increase of luxury and social mobility corrupted these moral sentiments and caused Smith to substantially revise the 6<sup>th</sup> edition of his *Theory* (1790). Whilst in the early edition, he located 'sociability' as a virtue in the norms of the average community, by the latter edition

he appreciated that the moral community had been destroyed by economic liberalism and that the public opinion of a society of strangers was no longer acceptable. Instead, Smith recognised the peculiar characteristics of the middle classes and preferred a moral crusade by the 'virtuous' few.<sup>22</sup>

Adam Ferguson was a contemporary of Smith also trained in a civic tradition. In his *Essay On The History Of Civil Society* (1767) however, he could not accept the optimistic assumption that the material and commercial progress of society went hand in hand with an improvement of law and justice. Thus he identified the civic humanist dilemma as that of a fragile human personality being subject to corruption and abuse of power. Later in his *Principles Of Moral And Political Science* (1792), Ferguson challenged the reliance on moral community virtues in the regulation of society when he declared:

Laws, whether civil or political, are expedients of policy to adjust the pretensions of parties, and *to secure the peace of society*. The expedient is accommodated to special circumstances, and calculated *to repress the specific disorders* peculiarly incident to particular situations (italics added).

For Ferguson therefore laws did not enforce themselves, they required enforcement by those who believed in them, and this sentiment perhaps represents an early hardening of attitude against the social consequences of the new economic prosperity.<sup>23</sup>

Apart from the secular philosophers, there were a small but very influential number of Church clergy who made it their business to influence the moral issues of the period. Ministers like Hugh Blair and Alexander 'Jupiter' Carlyle who were friends of David Hume and Adam Smith were led by William Robertson in the Moderate party within the Church of Scotland. The influence of the Established Church Ministers on the new middle classes during the latter half of the 18<sup>th</sup> century cannot be underestimated. Apart from the ministry, from 1762 Blair held the Regius Chair of Rhetoric and Belles Lettres, and Robertson was Principal of Edinburgh University. Of course Carlyle as Minister of Inveresk near Musselburgh from 1748, regularly featured in periodicals and journals for many years prior to his contribution to the *Statistical Account*. The Moderate party found some favour with Henry Dundas, for Blair was an outspoken supporter of his regime and Carlyle

corresponded directly with him on political issues. Although the Moderate clergy tried to influence public opinion in the 18th century, the new evangelical minister Dr Thomas Chalmers reacted with a much more 'moral crusade' during the early decades of the 19th century.<sup>24</sup>

Finally in addition to the well known philosophers and preachers there were a greater number of Scottish literati who believed that education and scholarship had a moral function. Scottish life was so impregnated by religion that their discourse was imbued with calvanistic influences of civic humanism, stoicism and 'sensibility' similar to the concept of 'sociability' expounded by Adam Smith. Contributions to the moral culture were often submitted under well known pseudonyms to the press and journals like the *Caledonian Mercury* and *Scots Magazine* which were seen as vehicles for the dissemination of social values. Moreover regular use was made of a number of voluntary debating clubs and societies which created a complex network of sympathetic support. The conspiracy was such as to compel recent researcher to conclude that:

The Scottish literati of the late eighteenth century were united in their program for guiding Scotland through a problematic period. While they wanted to transform the Scottish nation into a more civilized and economically viable nation, they did not want their countrymen to lose sight of the communal ties which held it together.<sup>25</sup>

The reality however, was that the civic harmony and prosperity sought by the neo-classical values promoted during the Enlightenment was already beginning to unravel. Despite the concerted defence of social mores through pulpits and press, economic prosperity continued to create class as well as physical divisions.

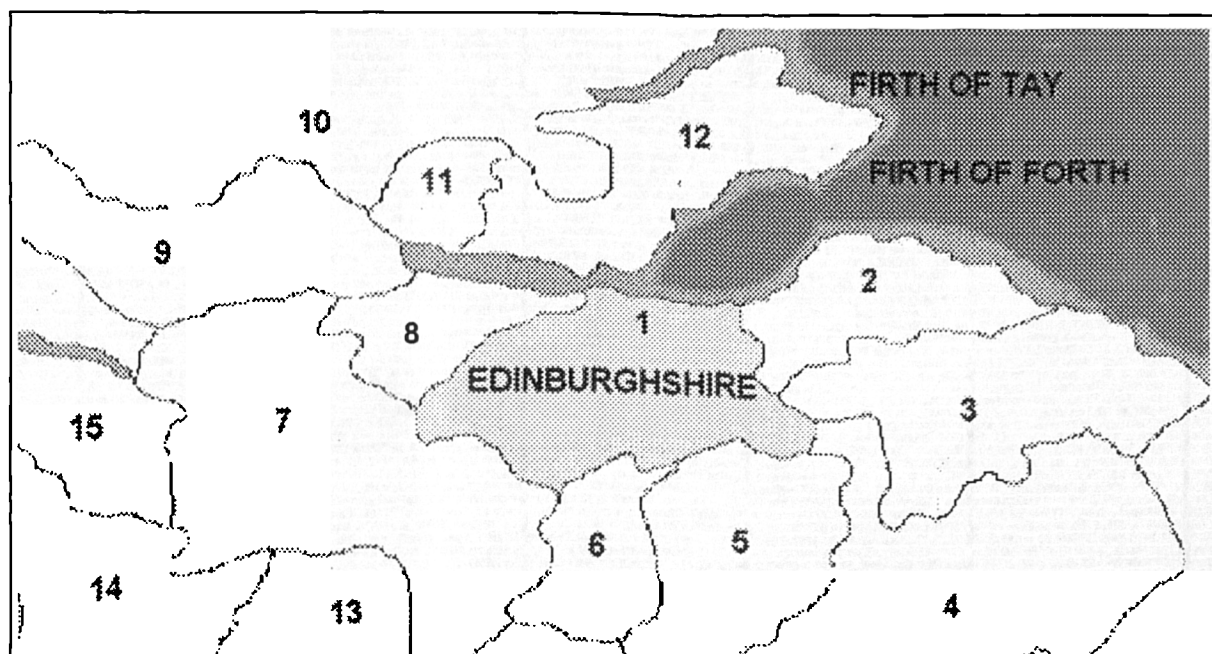
The political, economic and social perspectives outlined represent paradigms which are of course interconnected and interdependent. Whilst the essence of the modern state is to seek civic harmony and prosperity through the law and legal institutions, they are more often than not in various degrees of conflict at any given time. Thus during the latter decades of the 18<sup>th</sup> century, the newly emerged economic paradigm had primacy over the dominant social paradigm of the period. As a consequence, during the early decades of

the 19<sup>th</sup> century, the altered social paradigm had primacy and divided the dominant political paradigm, the outcome of which was parliamentary and municipal reform. It is in the context of these shifting paradigms and intellectual debate on the nature of society, that the case for a new Police and system of police emerged. The actual nature of early 19<sup>th</sup> century society in Edinburgh and Edinburghshire can now be outlined.

## LOCATION AND POPULATION

Before proceeding with topographic detail some clarification of terminology is required. Contemporaneous texts and maps use 'Edinburghshire' and the 'County of Midlothian' almost synonymously because the boundaries of each happened to be coterminous. The shire of English origin was more precisely the territorial area administered by the Sheriff and was singularly used in appropriate Acts of Parliament well into the 18<sup>th</sup> century. County appears to have been a more favoured concept relating to 'administration' in Scots law but its origin is more obscure. The fact is however, that after the Heritable Jurisdictions (Scotland) Act, 1746, the boundaries of shires and counties throughout Scotland did not all coincide. Scots legislation thereafter, increasingly referred to 'county' as the applicable administrative area even although confusingly, many functions were administered by the Sheriff.<sup>26</sup>

Located south of the Firth of Forth, Edinburghshire included an area of what eventually became the county of Mid-Lothian as well as the western parts of East Lothian and the eastern parts of West Lothian counties.<sup>27</sup> As Figure 1A shows, Edinburghshire (coded 1) was itself encompassed landward by the shires of Haddington, Berwick, Roxburgh, Selkirk, Peebles, Lanark and Linlithgow (coded 2 to 8 respectively).

**Figure 1A - Location Of Edinburghshire**

The other shires outlined are coded 9 - Stirling; 10 - Perth; 11 - Clackmannan; 12 - Fife; 13 - Dumfries; 14 - Ayr; 15 - Renfrew; and 16 - Dumbarton. The key to Figure 1A indicates the estimated population of Edinburghshire and surrounding shires according to census returns.

**Key To Figure 1A - Shire Populations By Census Returns**

Code	Shire	1801	1811	1821	1831
1	Edinburgh	122,954	148,607	191,514	219,600
2	Haddington	29,986	31,164	35,127	36,100
3	Berwick	30,621	30,779	33,385	34,000
4	Roxburgh	33,682	37,230	40,892	43,700
5	Selkirk	5,070	5,889	6,637	6,800
6	Peebles	8,735	9,935	10,046	10,600
7	Lanark	146,699	191,752	244,387	316,800
8	Linlithgow	17,844	19,451	22,685	23,300

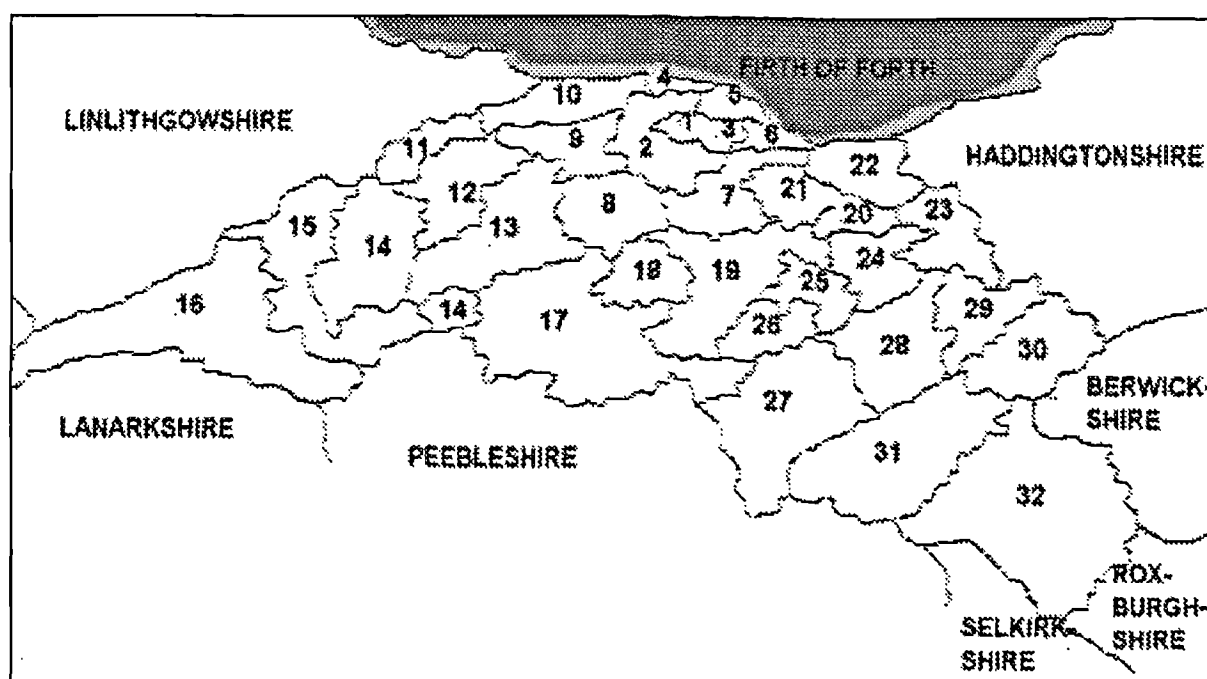
**SOURCE:** Census returns in PARLIAMENTARY PAPERS 1831 xviii, p380  
Returns for Edinburghshire include the City of Edinburgh and the suburbs of St. Cuthberts, Canongate, North and South Leith; whilst Lanarkshire included the City of Glasgow and the suburbs of Barony and Gorbals.

These census returns reveal that all the shires experienced population growth but the increase was more prominent in shires like Edinburgh and Lanark with urban centres.

Indeed against an average increase in population throughout Scotland of 14% between 1801-1811, 16% between 1811-1821 and 13% between 1821-1831, population in Edinburghshire increased 21% between 1801-1811, 29% between 1811-1821 and 15% between 1821-1831. Although much more detailed demographic research is still required in Scotland, these broad trends add credence to the views of Houston and Devine that the rate of urban growth during this period in Scotland, was the fastest of any region either in Britain or on the Continent. Moreover the acute increases in population over the first two decades in Edinburghshire are well above the Scottish average and are unexplained, and begs the question to what extent increased fertility and increased immigration differed in the metropolis.

During this period, shires were still divided into parishes and Figure 1B outlines parishes in Edinburghshire. For scale purposes, what was called the Ancient and Extended Royalty of the City is shown as one area (coded 1) Whilst at the time of the *Statistical Account*, Edinburgh had eleven parishes, the time of the *New Statistical Account* it actually contained fourteen parishes. In fact Edinburgh comprised the area code 1 to 3 inclusive which included the suburb parishes of St Cuthberts and Canongate, and is distinguished from the parishes of North and South Leith (areas coded 4 and 5 respectively).

**Figure 1B - Parishes In Edinburghshire**





**Key To Figure 1B - Parish Populations In Edinburghshire**

CODE	PARISH	1801	1811	1821	1831
1	City Royalty	31,863	35,965	51,768	55,239
2	St Cuthberts	29,636	38,673	50,597	70,887
3	Canongate	5,677	7,692	9,870	10,175
4	North Leith	3,228	4,875	7,025	7,416
5	South Leith	12,044	15,488	18,975	18,439
6	Duddingston	1,003	1,533	3,088	3,862
7	Liberton	3,565	4,033	4,276	4,063
8	Colinton	1,397	1,605	2,019	2,232
9	Corstorphine	840	1,159	1,321	1,461
10	Cramond	1,403	1,645	1,735	1,984
11	Kirkliston	1,647	1,682	2,213	2,265
12	Ratho	987	1,008	1,444	1,314
13	Currie	1,112		1,715	1,833
14	Kirknewton	1,071	1,300	1,513	1,445
15	Mid Calder	1,014		1,410	1,412
16	West Calder	1,185	1,435	1,458	1,617
17	Penicuik	1,705	1,827	1,958	2,255
18	Glencourse	390	455	661	652
19	Lasswade	3,328		4,186	4,252
20	Dalkeith	3,906	4,709	5,169	5,586
21	Newton	1,060	1,578	2,150	2,276
22	Inveresk	6,604	6,393	7,836	8,961
23	Cranston	895		954	1,030
24	Newbattle	1,328	1,651	1,719	1,882
25	Cockpen	1,681	2,000	1,925	
26	Carrington	409	455	550	561
27	Temple	855	1,058	1,156	1,255
28	Borthwick	842		1,345	1,470
29	Crichton	923	1,082	1,195	1,325
30	Fala & Soutra	234		277	
31	Heriot	320	300	298	327
32	Stow	1,876	1,458	1,313	1,771

**SOURCE:** Census returns as numerated in New Statistical Account of Scotland, Volume 1 - EDINBURGHSHIRE (1845)

The parish census returns confirm population growth during the period throughout Edinburghshire, but mask some migration into the urban centre. Whereas in 1801, 67% of the population of Edinburghshire resided in Edinburgh and the town of Leith, by 1831 the proportion had risen to 73%. This level of urbanisation is in sharp contrast with the reality that as late as 1821, as many as two Scots in three throughout Scotland, still worked on the farm, the croft, in the country village and the small town.<sup>28</sup>

Although more than two thirds of the shire resided in Edinburgh or Leith, there were other smaller centres of population in several towns and villages throughout the shire.<sup>29</sup> Musselburgh some five miles to the east of the city in the parish of Inveresk and Dalkeith some six miles to the south of the city in the parish of Dalkeith were the principle market towns in the shire. Population in Musselburgh increased from 5,392 in 1792 to 8,961 in 1831 and Dalkeith increased from 3,906 in 1801 to 5,586 in 1831. Although many hamlets

existed within the bounds of the shire, up to ten miles distant from the city, most villages clustered within a two to three mile radius from the city. As an indication of scale, the most populated villages according to the 1831 Census were - Portobello (3,587) two miles east of the city towards Musselburgh; Gilmerton (800) three miles south of the city towards Dalkeith; and Kirkliston (600), Ratho (539) and East Calder (370) which lay westwards from the city. Hamlets were more prevalent but did not account for the rest of the shire population. In the parish of Colinton south west of the city for example, at the time of the New Statistical Account, less than half of the population lived in the hamlets of Colinton (119), Swanston (103), Juniper Green (338), Hailes Quarry (140) and Slateford (211).

The parish census returns do not convey the whole demographic age profile. As Figure 1C illustrates, the rapid population increase during this period altered the balance between young and old.

**Figure 1C - Demographic Age Profile In Edinburghshire (1821)**

AGE GROUP	CITY		SHIRE		% OF TOTAL
Under 5	9,273	Male	3,879	Male	6.88
	8,736	Female	3,806	Female	6.56
5 to 10	8,432	M	3,553	M	6.27
	8,083	F	3,377	F	5.99
10 to 15	6,966	M	3,328	M	5.38
	7,823	F	2,969	F	5.64
15 to 20	5,922	M	2,496	M	4.40
	8,431	F	2,681	F	5.81
20 to 30	10,313	M	4,043	M	7.51
	16,742	F	4,935	F	11.34
30 to 40	8,589	M	2,885	M	6.00
	10,824	F	3,275	F	7.38
40 to 50	6,138	M	2,240	M	4.38
	7,262	F	2,600	F	5.16
50 to 60	3,545	M	1,538	M	2.66
	4,198	F	1,837	F	3.15
Over 60	2,732	M	1,734	M	2.33
	3,672	F	2,159	F	3.05
TOTALS	137,681		53,335		99.89

**SOURCE:** Abstract of 1821 Census return quoted in the SCOTS MAGAZINE (1822), PART II p18. City included Leith.

This profile for 1821 shows that more than one third of the population (i.e. 36.77%) in Edinburghshire was aged under 16 years, and that in the 15 to 30 years age group there was a gender imbalance in the city, with a ratio of at least three females to every two males.

## CITY OF EDINBURGH

The most remarkable feature of Edinburgh is that most of the natural landscape and much of the distinctive architecture erected prior to and during the period 1800 -1833 still survives. The natural landscape includes not only the dominant Castle rock (443 feet) in the city centre, but also nearby Calton Hill (343 feet), Arthur Seat (822 feet) and adjoining Salisbury Crags (550 feet). Much of the layout and character of the Old Town still extant, particularly the unique high rise lands, was set prior to 1800. Even the more classic 'Georgian' New Town commenced in 1767 was near to completion.<sup>30</sup> The Old Town and New Town together were developed within a mile of the Castle and included planned garden spaces - see APPENDIX A. In his submission for the *Statistical Account* in 1792, William Creech who was a close friend of Henry Dundas, ventured that 'When the plans at present in contemplation are completed, Edinburgh will be the most beautiful city in the World.' This aesthetic setting and architecture soon gained the city the 'Athens of the North' hallmark.<sup>31</sup>

By 1800, extensions to the boundaries of the city had resulted in an incongruous system of multiple but mutually exclusive burghs of barony or regality, inextricably linked by common administrative and legal jurisdictions.<sup>32</sup> Territorially, the city comprised of areas known as the Ancient and Extended Royalty, the Burgh of Canongate, the lands at Calton and the Eight Southern Districts. The Ancient Royalty in the heart of the city to which principal liberties were granted, included the Port of Leith by virtue of a Royal Charter of Robert Bruce in 1329. The Extended Royalty within which the principal liberties applied, had increased over the centuries by either acquisition of land or feudal superiorities. The Burgh of Canongate with associated lands at Broughton and North Leith, which had its own Town Council and Magistrates allowed by an Act of Parliament in 1469, had its superiority acquired by a legacy to the city in 1636. Although the lands at Calton located between Canongate and South Leith, were purchased by the city in 1724, a Royal charter placed the administration under the Bailie of Canongate.<sup>33</sup> Finally, from about 1760 onwards, as city building expanded south from the suburbs of Easter and Wester Portsburgh, an Act of Parliament in 1771 divided the area into Eight Southern Districts -

Teviot Row and Lauriston, Potterrow and Bristo, George Square, Nicolson Park, Crosscauseway, Gibbet Street, Causewayside and Tollcross.<sup>34</sup>

Municipal government of the city lay with the Lord Provost, Magistrates and Town Council chosen according to a constitution or 'sett' determined in 1583 by Decree Arbitral of James VI. Drawn from merchants and trades only, the whole council comprised thirty three members who were in part chosen by their predecessors and partly elected by the members of the fourteen incorporated trades. With renowned loyalty to both the King and Henry Dundas, town council members instinctively supported the Tory administration in central Government. The business of choosing the Lord Provost, the 1st, 2nd, 3rd and 4th Bailies, the Dean of Guild, treasurer, three merchant and two trades' councillors, fourteen deacons of the incorporated trades, and seven members (including the four old Bailies) of the following year was undertaken each September.<sup>35</sup> Once the new Town Council was chosen from the leets presented, the formalities of the office followed, along with the annual appointments of the Baron Bailie and two Resident Bailies for Canongate and Easter and Wester Portsburgh, and the Admiral of Leith and two Resident Bailies of Leith. These nominees usually had previous experience on the Town Council and this system of patronage helped maintain political influence over neighbouring territories including the town of Leith. The permanent officials for the city comprised a chamberlain, three assessors, legal agent, three city clerks, two depute clerks, keeper of the records, accountant, procurator fiscal, superintendant of water, superintendant of public works, kirk treasurer, captain of the city guard, keeper of the Tolbooth and keeper of the Bridewell.<sup>36</sup>

The office of Lord Provost was of course the pinnacle of progress within the Town Council, with previous experience as a Councillor and/or Bailie as well as personal wealth and influence almost a pre-requisite qualification. The Lord Provost was Chief Magistrate, the equivalent to High Sheriff, Lord Lieutenant and also Commander of the City Guard. Figure 1D lists the Lord Provosts in office between 1800 and 1833. Although subject to election each year, the convention followed to provide continuity was for a new Lord Provost and new Dean of Guild to be chosen every two years with a new treasurer chosen in alternate years. However the two yearly cycle of Lord Provost was interrupted

by the untimely death of Lord Provost Coulter, aged 56 in April 1810. He was succeeded by Lord Provost Calder who held office until September 1811 whereupon the two yearly convention resumed.<sup>37</sup>

**Figure 1D - Lord Provosts Of Edinburgh 1800 - 1833**

YEAR	LORD PROVOST	BORN	DIED	OCCUPATION
1800	William Fettes	1750	1815	Merchant
1802	Neil McVicar		1813	Merchant
1804	Sir William Fettes	1750	1836	Merchant - Bart 1804
1806	Donald Smith	1749	1814	Banker
1808	William Coulter	1754	1810	Weaver
1810	William Calder		1824	Merchant
1811	William Creech	1745	1815	Bookseller
1813	Sir John Marjoribanks		1833	Banker
1815	William Arbuthnot			
1817	Kincaid MacKenzie	1768	1830	Merchant
1819	John Manderston		1831	Banker
1821	Sir William Arbuthnot			Bart 1823
1823	Alexander Henderson		1827	Merchant
1825	William Trotter	1772	1833	Cabinet Maker
1827	Walter Brown			Merchant
1829	William Allan			
1831	John Learmonth		1858	Coachmaker
1833	Sir William Spittal KT		1842	Merchant

SOURCE: Dr Marguerite Wood , The Lord Provosts of Edinburgh 1296 - 1932 (1932) pp89 -115

The four Bailies, also referred to as Magistrates, were deemed Justices of the Peace but had executive and legislative as well as legal functions. Again some continuity was assured by virtue of the fact that once elected to the office of Bailie, the person automatically became a member of the Town Council the following year in the capacity of Old Bailie. In their executive capacity, the Bailies chaired as preses most Council Committees conducting business, the most important being the 1st Bailie Committee on Land Cess & Trade Stent and on Watchmoney which reported to the Council annually.<sup>38</sup>

As regards their legislative role, the Bailies through ad hoc committees oversaw the drafting of Acts of Council and Council regulations and bye-laws. These covered a wide range of socio-economic activity and included - Regulations & Table of Fares for Hackney Coaches & Chairs;<sup>39</sup> Regulations & Fares for Edinburgh Porters;<sup>40</sup> Bye-laws for the Wet Docks;<sup>41</sup> Regulations for the New Corn Sample Market;<sup>42</sup> Regulations for the Carters of Edinburgh & Leith;<sup>43</sup> Regulations for the Public Weigh House, Flesh & Fish Markets;<sup>44</sup> and Regulations for Tronmen, Chimney Sweepers and Firemen.<sup>45</sup>

Finally in relation to their legal function the Bailies were each invested with powers equivalent to a Sheriff-Substitute, which was quite remarkable given they seldom had legal backgrounds or judicial training. Indeed it was this fusion of functions that led the contemporary historian Arnot to conclude that of all the burghs in Scotland, the Lord Provost and Magistrates of Edinburgh were so uniquely 'vested with legislative, judicative, and executive authority' that it enabled them to enact, implement and enforce for the governance of the city, 'anything that seemed good to them'.<sup>46</sup>

Whereas political power in the city was consolidated in comparatively few persons of Tory influence, economic decision-making was in reality much more diffuse and diverse. Manufacturing industries were well established - with exports through the port of Leith of soap and candles, woollen goods such as blankets, carpets and stockings, linen and leather, being the most notable documented by Arnot. Local domestic needs for iron implements including spades, shovels, nails, chains and cutting tools, was met after the establishment of iron works in 1771 near Cramond village, three miles to the west of the city. Whereas iron production in 1790 involved thirty men with 1000 tons of ore imported yearly from Russia and Sweden, by 1845 the industry employed one hundred men.<sup>47</sup> Other local craft and service industries were historically more advanced. Apart from brewing, the most important were represented by fourteen incorporated trades from as early as the 15<sup>th</sup> century and they comprised the Royal College of Surgeons; Goldsmiths; Skinners; Furriers; Hammermen which included blacksmiths, locksmiths, gunsmiths, coppersmiths & saddlers; Wrights & Masons; Tailor; Bakers; Fleshers or Butchers; Cordiners or Shoemakers; Weavers; Wakers or Clothiers & Bonnet Makers.<sup>48</sup>

Although manufacturing and local craft industries were well established and developed, the city even at the beginning of the 19<sup>th</sup> century was more renowned as a centre for commerce and excellence in education as well as the seat of national justice. A Royal Charter of 1681 incorporated The Company of Merchants of the City of Edinburgh, but the 'Decree Arbitral' of James V1 in 1583 had already vested in the merchant dominant control of the Town Council.<sup>49</sup> The Chamber of Commerce and Manufacturers, an off-shoot of the Merchant Company was established in 1785.<sup>50</sup> Contribution to the 'Age of

Enlightenment' through the Faculties of Science, Medicine and Law can be judged not only from the calibre of Edinburgh based philosophers of that period, but also from the fact that the 'hotbed of genius' was drawn from large numbers of matriculated students.<sup>51</sup> The Treaty of Union in 1707 entrenched the independence of the Scottish legal system and ensured that the highest national Courts of Session for civil matters and of Justiciary for criminal matters remained in the capital.<sup>52</sup>

The importance of flourishing manufacturing industry, trade and commerce is not only measured by the wealth generated locally, but also in the potential through taxation to develop the infrastructure required to promote further economic development and basic service improvements for the benefit of the local community. What can be termed 'burgal' finance during this period was fairly complex, but can be considered under heads of national taxes, local rates (also on properties) and other ad hoc levies, charges or customs.<sup>53</sup>

Even the term national taxes is misleading for at the beginning of the 19<sup>th</sup> century the main national tax known as the land tax or cess - an annual tax levied on shires and burghs of Scotland according to the land valued rent set in 1667, was a fixed sum determined in advance and apportioned amongst those liable. Whereas the Act of Union in 1707, had apportioned the sums liable between the two nations, the Convention of Royal Burghs decided the portions due within Scotland.<sup>54</sup> Of the £8,000 due from the burghs in Scotland, the quota fixed in 1805 for Edinburgh was £2,600 which indicates the pre-eminent wealth of the city at that time.<sup>55</sup>

Income tax had been imposed in 1798 as a 'war tax', but its unpopularity was well recognised by Government for within a week of agreeing the Treaty of Peace with France, the Chancellor of the Exchequer announced its repeal.<sup>56</sup> However, by December 1803, income tax was reintroduced to assist the war effort as were other measures like the 'window tax' introduced in 1808.<sup>57</sup> The need to raise money also prompted the Government to promote a 'state lottery' scheme in 1807.<sup>58</sup>

Local taxes known as 'stents' were collected along with the land cess by officials called 'stent masters' who were commissioned by the Town Council. Edinburgh like many other burghs, levied more than its quota of land cess, to cover not only the cost of collection by stent masters, but also certain other burghal purposes like the Fire service. Thus at their meeting on 8 August 1804, the Town Council approved estimates, as they did typically each year under this head, for the year commencing 25 March 1804, for:

- 72 Firemen's allowances at £1-1-0 each	£ 75-12-0
- 24 Watermen allowances at £1-1-0 each	£ 25- 4-0
- Expense of over-seeing Water Engines	£ 50- 0-0
- Charges upon Engine pipes & buckets	£ 10- 0-0
- Care of leather pipes	£ 18- 0-0
- One years rent of the Cess office	£ 18- 0-0
- Overseer of the Water works	£ 6- 0-0
- Assistant Water officer at 7/- per week	£ 18- 4-0
- 12 Sootiemens allowance at 5/- each per annum	£ 3- 0-0
- Expense of ingathering Cess & Stent	£216-13-4
- Repairs to Fire Engines	£ 76- 5-7
- Incidents in the Cess office	£ 38- 2-5
- Stationary	<u>£ 15-19-2</u>
Total to be imposed	<u>£571- 0-6</u>

An Act of Council authorised the stent masters to impose said sum, along with the sum of £2,849-10-4, being the amount of land cess due by the city over the same period.<sup>59</sup>

Edinburgh Town Council however, imposed other local taxes in addition which were unique in Scotland. Each year estimates were submitted and authorisation obtained by Acts of Council in respect of heads of expenditure termed watchmoney, the 6% annuity, and 2% poors' money.<sup>60</sup> The 1st Bailie Committee had responsibility for auditing the reports of the stent-masters and submitting accounts for the approval of the Town Council. A Report by the Stent Masters for the year commencing Whitsunday 1803 considered in June 1804, revealed that the:

6% Annuity and 2% Poors Money of the valued rents of houses and shops  
with a total extent of valuation £796,730 Scots, and that the total 8% on  
this amounts to £63,738-8-0 Scots.<sup>61</sup>

Standardisation of accounts in sterling rather than scots money which was exactly one twelfth of the value appears to date from the introduction of a new tax roll for burghs later in 1804.<sup>62</sup>



Edinburgh Town Council authorised other ad hoc levies, charges or customs, by Acts of Council. Apart from feu income and the receipts from land sales, the Town Council received fee income from a variety of charges imposed under the head of the 'common good.' These included Imports on wine & ale, Leith shore dues, charges for use of the public weigh house, pasturage on the meadows, sale of dung, and customs accruing in the flesh and fish markets. Reports from the 1st Bailie Committee accounting for the various sums received are minuted in the majority of Town Council meetings. For example in August 1804 members approved the 1st Bailie Committee report on the accounts of the firm Messrs Smith & McQueen which showed that impost on wine had raised £786-7-8 for the year from Martinmas 1801.<sup>63</sup> Yet another peculiar charge in the city pertained to seat rents in churches.<sup>64</sup>

Collection of such levies, charges and customs were not without difficulty, for the 1st Bailie Committee reports often specified arrears over the preceding years. Occasionally major deficiencies came to notice, as in the case of the 'two penies Scots' duty on each pint of beer brewed in the city. At their meeting on 10 October 1804, the 1st Bailie Committee report on the account of the ale duty revealed that over a seventy-six year period since the commencement of the duty on 1 July 1723 and ending 1 July 1799, ale duty arrears amounted to £13,085 scots.<sup>65</sup>

The raising of local finance in the city thus appears to have been a centralised but uncoordinated process under the charge of the city chamberlain assisted by two clerks. However in fairness to the officials, at their meeting on 29 August 1804 the Town Council acknowledged their increased workloads since their last pay review in 1796, and increased the salary of the chamberlain from £105 to £160 per annum and that of the second clerk from £25 to £50 per annum, to be equivalent to the main Clerk.<sup>66</sup> Stent masters and collectors of the various levies, charges and customs were commissioned from business partnerships or financiers who sometimes had obvious connections with the Town Council. For example Neil MacVicar, who was a merchant and Lord Provost from 1802 to 1804 was appointed Collector of the Cess in 1804 and Collector of

Watchmoney and of Seat Rents in 1805.<sup>67</sup> Perhaps to lessen the administrative burden on the officials, the Town Council advertised for let by public roup, the various branches of the 'common good' for two years between Martinmas 1808 and 1810.<sup>68</sup> Not until The Royal Burghs (Scotland) Act, 1822 was there uniformity of accounting for the common good and revenues of royal burghs.<sup>69</sup>

Minutes of Edinburgh Town Council meetings at the beginning of the 19<sup>th</sup> century also convey the impression that authorised expenditure although centralised was similarly haphazard and uncoordinated. Routine payment of bills by the chamberlain who presented annual accounts was homologated by the full Council, but new spending therein required specific authorisation. Such ad hoc expenditure was varied and items beyond maintenance of the City Guard and Firemen's service included for example approval:

- in 1803 for £30 per year to the Moderator Constable for the expenses of City Constables;
- in 1804 to pay the Commissioners for the Bridewell £200-9-6 on certified account in respect of the maintenance of two hundred and two prisoners during 1803;
- in 1805 for a twenty guineas subscription towards the expense of a lifeboat at Leith;
- by Act of Council dated 29 May 1805 for increasing the salary of Lord Provost from £500 to £800 per annum;
- in 1806 for ten guineas to the Rev Dr David Johnston in respect of Edinburgh citizens held as prisoners of war in France; and
- in 1810 for £25 to enable two new sentry boxes to be placed outside the Lord Provost's house.<sup>70</sup>

Retirals, new appointments and salary reviews of city officials were also discussed and minuted at full Council meetings. Thus at their meeting on 4 December 1809, the Council appointed Thomas Bonar as replacement Superintendant of Public Works at a salary of £200 per annum; and at their meeting on 17 October 1810, appointed Andrew Gardner as replacement Superintendant of Water at a salary of £200 per annum with an allowance of

£30 to keep a horse. These officials whose office had existed for many years provided regular reports and sometimes joint reports to the Town Council.<sup>71</sup>

City revenues not only met salaries for officials, routine repairs and maintenance bills for public buildings, operating costs for public utilities including the Bridewell and Jail, and the incidental expenses of the Lord Provost, Magistrates and Town Council, but were also applied to capital projects.<sup>72</sup> Invariably any new non-essential capital project announced was usually accompanied by a plea for public subscriptions.<sup>73</sup> As a result some major projects like the Union Canal were a long time in the making and others never materialised.<sup>74</sup> Extensions to the Royalty for new tenement house building required the provision of infra structure services like water, roads and bridges.<sup>75</sup>

In 1676 a gravitation water supply was introduced to the city from Comiston springs, three miles to the south. It delivered 6,000 gallons daily to a cistern upon Castle Hill where water was then led by pipes to ten smaller cisterns in different parts of the city. This supply was augmented in 1760 by water from Swanston springs, a further two miles distant from Comiston. When the Edinburgh Water Company was incorporated in 1819, it paid the Town Council £30,000 for the existing water-works. The company collected the water from Crawley spring in a reservoir at Glencourse, twelve miles to the south of the city and laid a cast-iron pipe to Edinburgh. By 1821 water was led into most of the better class houses, while the poorer houses still obtained supplies from the public wells.<sup>76</sup> Whilst welcoming this innovation Cockburn observed that the water caddies, whose business was to carry water into houses ceased to exist within a few years.<sup>77</sup>

As regards public roads, there are references to the streets of the city being paved with cobbles in 1533, paid for by imposing a small toll on Edinburgh carts using the thorough fares. Although maintenance of the roads was usually a county function entrusted to Justices of the Peace and Commissioners of Supply under the Highway (Scotland) Act 1718, in Edinburgh this responsibility came under the Town Council who imposed a charge on householders in commutation of statute labour. The charge on householders was based on rental on houses. Those at £2 and under £5 paid 2/- per house, at £5 and

under £15 at 4/- and so on rather arbitrary until at a rent of £160 the payment was £2-2-0.<sup>78</sup>

Whilst there is no clear demarcation between economic and social activity of benefit to the community, it is important to mention those aspects of social organisation, if only to illustrate the extent of urbanisation in early 19<sup>th</sup> century Edinburgh. The most notable changes between 1763 and 1792 were listed by William Creech in his contribution to the Statistical Account.<sup>79</sup> Later in 1829, the *Scotsman* newspaper provided a statistical View of Edinburgh in the summary:

Population, including Leith, 170,000 - 1 royal palace - 1 college - 31 professors - 1 riding school - 1 military academy - 700 teachers in all branches of education - 1 royal exchange - 70 churches - 2 theatres - 13 courts of justice - 400 advocates - 800 writers to the signet and solicitors - 86 accountants - 40 physicians - 70 surgeons - 100 apothecaries - 7 libraries - 11 newspapers - 42 newsmen - 11 public hospitals - 60 charitable institutions - 25 literary societies - 80 royal mail and stage coaches - 86 hackney coaches - 400 carriers - 80 public offices - 850 streets, squares and lanes - and 5 bridges.<sup>80</sup>

The significance of the gradual increase of socio-economic activity reflecting to a large extent the wealth of the city, is the corresponding increase in the opportunities to commit crime, whether against the persons or property, and of the likelihood of a greater number of what in the Introduction was termed as 'welfare' offences.<sup>81</sup> For this reason it is necessary to examine in more depth other social services having a direct bearing on public welfare.

Public education was the first local service in Scotland, generally provided in each parish under an APS 1696.<sup>82</sup> However in Edinburgh the Town Council had established a Grammar School in 1519 and the Royal High School in 1578.<sup>83</sup> Other well known schools included George Heriots and the Merchant Company Schools of George Watsons. Surplus revenue under Heriots Trust enabled the Governors to build another seven schools in the city at Heriot Bridge, Cowgate, Port Borthwick Close, Old Assembly Close

and High School Yards, with the latter two locations also having infant schools accommodating upwards of two thousand children. The Kirk-Sessions had also established two schools for the 'lower classes' in Niddry Street and at Greenside, each with five hundred pupils.<sup>84</sup> Whilst the *Statistical Account* had produced anecdotal comments about high levels of literacy even amongst poor children, the General Assembly Survey on Education for the Poor undertaken in 1818 and subsequent Digest of Returns published in 1821 provided stronger evidence that there was a great deal of schooling throughout Scotland, albeit unevenly spread and that the poor were well provided for.<sup>85</sup> The Royal High School had a monopoly to teach Latin until the emerging new professional middle classes led by Sir Walter Scott and Henry Cockburn established the Edinburgh Academy in 1824 to further classical education.<sup>86</sup>

Public health also had a high priority in early 19<sup>th</sup> century Edinburgh. The College of Physicians was incorporated in 1681 and the Royal College of Surgeons re-incorporated in 1778. Whilst the first Royal Infirmary of Edinburgh erected in 1729 contained only six wards, the second building opened in 1745 had 228 beds. By 1790, more than 2,000 patients were admitted annually to the Royal Infirmary, and no less than 15,490 patients were relieved at public dispensaries.<sup>87</sup>

The extent of public transport is another important indicator of urban development and facilitator of economic and social improvement. Apart from the banks and other commercial businesses, the Post Office was a key user of the transport network throughout the country.<sup>88</sup> In 1800, mails were being delivered to one hundred and sixty-four post towns in Scotland, which was routed through Edinburgh, and the city itself had six letter carriers for its inhabitants. By the time of the *New Statistical Account*, seventy-four persons were employed in the Post Office and another eighty-one persons were employed as letter carriers.<sup>89</sup> As regards economic usage, the Turnpike Roads (Scotland) Act 1758, required an additional toll of 5/- per horse to be laid on all waggons drawn by four or more horses in Scotland. Waggons with more than eight horses were forbidden and chaises and coaches including landau, berlin or calash, were exempt. Creech

reported in 1790 that 'there were 1427 four-wheeled carriages entered to pay duty, and 462 two-wheeled. And of wains and carts 6450'.<sup>90</sup>

As already indicated even the social usage of public transport, was subject to detailed regulations. Hackney coaches were introduced into the city in 1673, however by 1800 there were a greater number of sedan chairs due to the terrain. Under the Regulations and Table of Fares for Hackney Coaches and Chairs, operators had to be registered with the Society of Chair Masters & Bearers of Edinburgh, and their employees licensed at Whitsunday and Martinmas yearly. Vehicles were numbered front and rear and carried lanterns at night. They operated from fixed stations within the city - the High Street, St Patrick's Square, the Theatre, George Street (Assembly Rooms), George Square and Corries Room. A total of fifty journeys or facilities had publicised prices. Drivers and chairmen wore a brass badge with the vehicle number thereon, and fines could be imposed for contravention of the regulations. Creech records that:

- by 1783, there were five or six stage coaches to Leith every half hour, a journey which took fifteen minutes; and
- by 1786, two stage coaches which set out daily for London could complete the journey in sixty hours.<sup>91</sup>

Arnot, in his sketch of the improvements in the city from 1780 to 1816, lists the coaches and stage coaches, and their times of departure often two to four hours apart daily, from advertised locations in the city to the principal destinations of Aberdeen, Carlisle, Dalkeith, Dumfries, Dunbar, Dundee, Falkirk, Glasgow, Haddington, Jedburgh, Kelso, Lanark, Leith, Linlithgow, London, Musselburgh, Peebles, Perth, Prestonpans, Stirling and South Queensferry.<sup>92</sup>

Street cleansing and street lighting were very much considered public services or branches of the system of police developed at that time. Street cleanliness was a responsibility of the Town Council from 1519, but the defects in refuse collection by employed 'scavengers' is well known from the anecdotal accounts of Defoe, Topham, and Chambers.<sup>93</sup> An Act of Council dated 12 July 1749 ordained:

That the Scaffingers, and every other Person within this City, shall not, upon any Pretext whatever, presume to empty or lay down Filth, Ashes, foul Water, or other Nastiness, on the Streets, Vennels, Closes, Lanes, or any other Place of the City, in time-coming, but at the Periods after-mentioned, viz.; not after six o'clock in the morning, and before nine o'clock at night, from the first of May to the first of August; nor after seven o'clock in the morning, nor before eight o'clock at night, during the months of August, September, March and April; and not after night o'clock in the morning, nor before eight o'clock at night during the months of October, November, December, January and February; and not upon the Saturdays of any Week throughout the whole year, except before the hours in the morning particularly mentioned

under the penalty of 5/- upon conviction for every offence.<sup>94</sup>

As early as 1554, the Town Council had ordered that candle lanterns or 'bowers' should be hung out in the streets and closes by such persons and in such places as the Magistrates should appoint - to continue burning for the space of four hours from five o'clock in the evening till nine o'clock at night - extended to ten o'clock in another Order in 1684. By 1800 and up to the introduction of gas lighting in the city in 1818, the streets were regarded as well-lit up by means of oil lamps. Substantial improvements in street cleansing and street lighting were made in other parts of the city beyond the Ancient Royalty after these services came under the charge of Police Commissioners between 1771 and 1773.<sup>95</sup>

Another economic enterprise with a distinct social benefit in the city was printing and publishing. Printing presses were introduced in 1509, and Acts of the Parliament of Scotland were printed from 1540. By 1779 there were twenty-seven printing offices in Edinburgh and as already indicated printers were high wage earners. The first newspaper *Mercurius Scoticus* was published in 1651 and the first edition of the *Scots Magazine* began in 1739.<sup>96</sup> In 1792, Creech referred to six regular newspapers - the *Courant*, *Mercury*, *Herald*, *Advertiser*, *Caledonian*, *Chronicle* and *Gazateer* published in the city.<sup>97</sup>

Other important local publications which followed early in the 19<sup>th</sup> century included the Whig sponsored *Edinburgh Review* in 1802 and the *Scotsman* newspaper in 1817.<sup>98</sup>

A more widely known economic enterprise often referred to in literature of the period but very much regarded as being on the lower scale of social benefit were the numerous inns and taverns which played a large part in the social habits of the Old Town. In 1771, Smollet took the view that 'the public inns of Edinburgh are still worse than those of London'.<sup>99</sup> By the turn of the 19<sup>th</sup> century Arnot noted vast improvements whereby in several of the fifteen hotels in the New Town 'strangers of any rank may find accommodation suited to their wishes.' However consumption was such that Arnot recorded '159 houses were licensed to retail spirits, but 1,852 provide liquor, chiefly whiskey to *lower classes*.'<sup>100</sup> Chambers devoted a whole chapter on the 'Taverns of Old Times' but still referred to many more throughout his account, like the Laigh coffee houses and taverns clustered near Parliament House and the Royal Exchange.<sup>101</sup> Alongside the drinking dens for the lower and middle social orders, there were 'dancing assemblies' for the upper classes. The first of several dance halls in the city was located in West Bow in 1710 and others existed prior to the opening of the Assembly Rooms in George Street in 1784.<sup>102</sup>

Poverty relief arrangements provide the final insight into key social services in early 19th century Edinburgh and because the arrangements were unique, reference is again required to the wider Scottish context. Poverty, more commonly known as indigence was of course relative but acknowledged as a major problem for society in the form of begging, mendicancy and pauperism. Management of the poor in Scotland generally was based on various 15th and 16th century Scots statutes as interpreted by the Court of Session, and the system survived change until 1845. These statutes basically had a twin approach, that of prescribing those less able individuals who were entitled to poor relief; and that of proscribing vagrancy and street begging unless licensed by the parish of settlement. Whilst administration of poor relief was initially placed under the Provost and Bailies of burghs and justices in landward parishes, with enforcement of both overseen by



the local Sheriff, by the 18th century responsibility generally had been transferred to heritors and the kirk-session in parishes.<sup>103</sup>

A contemporaneous position statement on the extent of poverty in early 19th century Scotland and its causes, is also contained in the *Analysis of the Statistical Account of Scotland*, produced in 1825 by Sir John Sinclair.<sup>104</sup> In 1820 the General Assembly of the Church of Scotland, had estimated 44,199 poor persons in Scotland (2.4% of population) which compared with 939,975 poor (7.8% of population) in England and Wales. Having reviewed the principle causes of indigence under the headings - age, infirmity and disease, insufficiency of the product of labour, want of employment, early marriages, unforeseen accidents, and misfortunes, the establishment of manufacturers, dependence of public funds for relief, luxury, want of energy of character, and vice, Sinclair thought that 'profligacy is the cause most to be dreaded, and most difficult to be eradicated' and like Dr Thomas Chalmers concluded that about half of pauperism arose from cases of immorality and dissolution of the relative ties.<sup>105</sup>

Dependency upon kin relations of course stressed for economic as well as moral reasons for by the law of Scotland at that time, a pauper however destitute, was not entitled to parochial relief if there were relations in sufficient circumstances, and of such near degree, as to be bound to provide ailment. The limitation of poor law in Scotland was that it did not establish a legal right in a claimant to relief and there was no regular system of appeal against a decision of the kirk session. Those with no relations liable to a claim of ailment, could claim relief under the laws of settlement which was acquired by birth, parentage, marriage or by residence for three successive years. Those receiving poor relief were divided into:

- persons on the permanent roll, like the factious, aged over 70 years, orphans under 14 years and the infirm and the like;
- those given occasional relief through temporary sickness or accidental loss of income or property; and
- licensed beggars, who were granted a badge or token entitling begging within the bounds of the parish.<sup>106</sup>

The source funding of poor relief varied across Scotland according to locality. The vast majority of parishes used up to 50% of voluntary contributions made in churches, whilst some also relied on church fines and even 'mortified' sums, sunk with interest for the benefit of the poor. The move to legal assessments for poor relief was generally resisted and restricted to more populous town areas. Sinclair reckoned that in the 1790's only ninety two of the eight hundred and fifty parishes in Scotland had such legal assessment, but that this had risen to at least one hundred and ninety eight assessed parishes in a Church of Scotland survey undertaken in 1818. More recent research by Rosalind Mitchison however reveals an unevenness throughout Scotland, but with the great majority of the parishes in the Lothians using assessments for poor relief by the 1820's. No matter the source, from about 1776 the normal allowance for each pauper varied from 3/- to 5/- per month between parishes, depending on the price of meal and other circumstances.<sup>107</sup>

During the 18<sup>th</sup> century Edinburgh Town Council imposed a 2% Poores' assessment on the tenants of houses and shops, on four fifths of the real or actual rent, as surveyed by the stent masters. In 1740, the Town Council signed a contract with the General Kirk Session delegating the whole administration of the city poor to a management group of ninety six (later one hundred and eight) individuals. Whilst the more able poor obtaining relief were employed outdoors, Edinburgh Charity Workhouse was opened in 1743 near Bristo Street to accommodate up to four hundred and fifty less able inmates. Other charity workhouses were opened in 1761 in Canongate and St Cuthberts parishes under separate management. As already indicated, the Stent masters imposed a 2% Poores' assessment over the year 1803-04. This soon became inadequate during the early decades of the 19<sup>th</sup> century and by the time of the *New Statistical Account*, a 6% Poores' assessment was the norm. Despite this structured and organised approach to poor relief in the city, available workhouse minutes reveal that they usually operated in debt.<sup>108</sup>

The number of inmates in the charity workhouses provides only a one dimensional view on the scale of poverty in Edinburgh. Whilst the city workhouse had four hundred and

twenty inmates in 1800 and this steadily rose and doubled to eight hundred and forty two inmates by 1813, more than half were women. A second dimension which is of more importance for this study, was the 'visible' number of poor on the streets who were employed for part of the day in outdoor relief work. Although no precise numbers are recorded from the financial expenditure minuted, it can be estimated that the city workhouse also organised just over one hundred able poor in 1800 and that this rose steadily to more than five hundred in 1808; and to almost one thousand in 1817.<sup>108</sup>

The third dimension in addition to the permanent and structural poor, was the widespread economic dependency occasioned by bad harvests. Cockburn made particular reference to the 'dearths' of 1795-96 and of 1816-17. In respect of the former he records that:

On the 4th of March 1795 about eleven thousand persons, being probably about an eighth of the population, were fed by charity in Edinburgh. A public proclamation specified the exact quantity of bread which each family ought to consume, being a loaf for each individual weekly;

whilst in respect of the latter he asserts that:

The year 1816 closed bitterly for the poor. There were probably never so many people destitute at one time in Edinburgh. The distress was less in severity than in 1797, but the population having increased, it was greater in extent.

The 1795 arrangements for feeding the Edinburgh poor were similar to the Speenhamland system introduced in Berkshire to avoid widespread starvation and contrary to the free market solution of Adam Smith, such mercantile intervention had continued periodically for some time following the fluctuation of bad harvests and the high price of grain.<sup>110</sup>

Whilst Sir John Sinclair asserted that the system of poor relief in Scotland was more prudent from that operating in England and Wales, the philosophical basis for relief in Scotland was a major restricting factor. The early Scots statutes made no provision for management of the able bodied unemployed apart from licensed begging and there was a strength of feeling that the able bodied had no right to relief from local assessments.

Rosalind Mitchison charts the hardening attitudes towards poor relief, referring to the 1772 Court of Session case *Paton -v- Adamson* which overruled the idea that a Sheriff could order a parish to pay a particular sum; and the hostility evidenced in the *Scots Magazine* in 1773, to a proposed increase to 10% assessments in Edinburgh to support the city workhouses. Despite the later Court of Session case of *Pollock -v- Darling* in 1804 which ruled that the poor law was for the relief of the destitute, no matter how that destitution was caused, the evangelical Dr Thomas Chalmers after his transfer as a minister in 1815 to Glasgow, led the upper and middle class movement against extending legal assessments. In an anonymous article in the *Edinburgh Review* in 1817 he took the view that poor relief should involve a personal relationship between giver and receiver and it required to be completely voluntary. Chalmers proposed that assessment based relief should continue for established paupers only, and be legally abolished for new claims.<sup>111</sup>

Against this wider philosophical basis for relief in Scotland, the actions of Edinburgh Town Council towards assisting the poor in the city can be viewed as more than humanitarian. After another bad harvest in 1800, the Town Council obtained a private Act to raise £10,000 for poor relief. At the same time the Edinburgh Society for Bettering the Conditions and Increasing the Comforts of the Poor was constituted. With a management committee including the Lord Provost, the Sheriff Depute and Master of the Merchant Company, the Edinburgh Society opened a School of Industry in Teviot Row. At the first public AGM in March 1802, chairman Sir William Forbes reported that over the previous year, nearly two hundred persons had obtained employment in lace manufacture and received maintenance therefrom.<sup>112</sup> Apart from organising broth kitchens, the Edinburgh Society also organised the labour of the able-bodied receiving poverty relief, to clear Bruntsfield Links of whins and old quarries, to drain the Meadows, and to make walkways on Calton Hill and at the base of Salisbury Crags which was not completed until 1820.<sup>113</sup>

Whilst there was clearly a benevolent approach in Edinburgh to supporting the able poor through temporary relief, there was a discernible intolerance towards vagrancy and street begging. The Edinburgh Society had already established a small but influential management committee to liaise with the Town Council for the purpose of establishing an

'efficient mode of abolishing the practise of Vagrant Begging'. Their remit included either the more effective enforcement of existing statutes or suggesting new measures for insertion in a new Police bill which was being considered for the city. The intolerance was such that the Edinburgh Society for Bettering the Conditions and Increasing the Comforts of the Poor reconstituted to become the Edinburgh Society for the Suppression of Begging in 1812.<sup>114</sup>

The Town Council eventually opted for new measures to suppress vagrancy and street begging in the new Police bill. These measures were particularly harsh and are considered later. It is sufficient and reasonable to conclude at this stage that from the rigors and the management of poor relief in Scotland, the official rate of 2.4% poor in the population in 1820 was, particularly in an urban centre like Edinburgh, an underestimate of the true scale of the problem.

## TOWN OF LEITH

The prominent feature of early 19<sup>th</sup> century Leith was its port which, lying two miles to the north, was of strategic importance to Edinburgh - see APPENDIX B. Arnot encapsulated the Edinburgh establishment view when he declared that 'Leith is the Port of Edinburgh.' Leith harbour was granted to Edinburgh in a charter of barony in 1555.<sup>115</sup> By 1800, the town of Leith comprised of the ancient territories of:

- South Leith, a barony for which Edinburgh Town Council were superiors from 1567;
- North Leith, part of the Burgh of Canongate for which Edinburgh Town Council were superiors from 1636;
- Citadel of Leith, a regality acquired by Edinburgh in 1663;
- Precinct of St Antony, adjoining South Leith, which was originally a preceptory founded in 1435 but wantonly destroyed by 1779; and the
- Admiralty jurisdiction of the harbour area which again was under the control of Edinburgh from 1329.<sup>116</sup>

From 1567 the municipal government of Leith lay with the 'Bailies of Leith' who were appointed yearly by Edinburgh Town Council. Originally the Baron Bailie who was also Judge Admiral of Leith and his Deputy were Edinburgh based persons. They travelled to Leith as circumstances required, but usually twice a week on Mondays and Fridays to hold their Court in the Tolbooth.<sup>117</sup> As a result of the Jacobite threat, Leith obtained another Bailie in 1715 and by 1753 Maitland referred to the custom of the Baron Bailie and two Bailies being nominated from persons resident in Leith.<sup>118</sup> The Bailies of Leith undertook the same range of executive, legislative and legal functions as the Bailies of Edinburgh. Bailie duties included overseeing tax gathering by the stent masters, issuing regulations and orders for the local government of Leith and adjudicating at first instance both civil disputes and criminal prosecutions. The only permanent officials for the town were the town clerk and four Town Officers whose quasi-military duties included attendance upon the Bailies on court days.<sup>119</sup>

Manufacturing industries were also well established in Leith, the most notable being the production of green glass bottles, linen goods, soap and candles, and the baking and refining of sugars. By 1800 Leith had only four corporations, the Mariners both ship masters and sailors; Maltmen who include brewers; Trades which were coopers, bakers, smiths and wrights; and Traffickers both merchants and shop-keepers. It was as a trading port that Leith excelled throughout the 18th and well into the 19<sup>th</sup> century. Arnot charts the extensive range of commodities imported from and exported to Denmark, Norway, Sweden, Russia, Prussia, Poland, Germany, Holland, France, Spain, Portugal, Guernsey, Ireland, Gibraltar, Italy, Sicily, North America and the West Indies, in addition to the coastal fishing fleet activity and routine trade with London and the north of England ports.<sup>120</sup> Despite extensive trading links and commercial activity, the Bank of Leith was not established until 1806. Apart from trading, the port of Leith was a strategic naval base, hence Government loans were made available for the construction of new wet docks between 1801 and 1806.<sup>121</sup>

Like Edinburgh, Leith as an urban centre had basic local public services like water supply, education, cleansing and lighting. The revenues collected by the Bailies similarly went into

one account known as the 'common good' and included feu duties, sale of dung, customs on trade, harbour dues and fines of court. The privilege of collecting dung or 'fulzie' from the streets was under contract obtained by public roup. Revenues were used for the salaries of officials, for maintaining prisoners in the Tolbooth, and for repairing and improving the harbour and streets.

Unlike Edinburgh, Leith had a very poor water supply and this was not remedied until a private Act of Parliament was obtained in 1771 for the improvement of cleansing, lighting and water supply.<sup>122</sup> Keeping the streets clean and lit during the 18<sup>th</sup> century was most certainly ineffective without adequate enforcement measures. A Proclamation of the Leith Bailies in 1725 aimed to prevent the laying down of ashes or filth after eight o'clock in the morning and before eight o'clock at night, under the penalty of £3 scots.<sup>123</sup> Another Proclamation in 1727 aimed to prevent the owners of 'swine' allowing their animals to 'runn loose up and down the common vennells and streets of the Town' under the penalty of £10 scots.<sup>124</sup> As regards the provision of street lighting, it can be assumed that this was undertaken as early as 1727 for another Proclamation that year created penalties of £20 scots for breaking lamps or posts in the town.<sup>125</sup> It is also known that Leith had its own fire engine from at least 1743, from accounts for repairing the brass working parts and leather pipes.<sup>126</sup>

Leith was most certainly the poor relation of Edinburgh in terms of the development of public services. Inhabitants had to rely on Edinburgh for the long term custody of prisoners, hospital services and even higher education until the opening of Leith Grammar School in 1806. There were no workhouses in Leith and therefore poverty relief arrangements involved outdoor work only.<sup>127</sup>

Leith was connected to Edinburgh by three principal routes. Leith Walk completed in 1774 was more than a mile long with a significant decline and curve northwards which linked the east side of the New Town into the heart of South Leith. To the east running almost parallel, Easter Road linked South Leith to the foot of the Canongate near the Palace of

Holyroodhouse. To the west side of the New Town, roads to Canonmills at the Water of Leith linked to Bonnington Road and into North Leith.<sup>128</sup>

## THE RURAL SHIRE

With more than two-thirds of Edinburghshire resident in Edinburgh and Leith, the necessities of urban life like food and fuel, greatly determined the lifestyle of those living elsewhere in the shire. Despite lacking detail on Edinburgh and Leith, the *Statistical Account* and *New Statistical Account of Scotland* contain the most authoritative and comprehensive descriptions of late 18th and early 19<sup>th</sup> century life in the surrounding parishes in the shire - see APPENDIX C.<sup>129</sup> In line with the dictum of Creech that 'as opulence increases, virtue subsides,' many of the parish accounts reflected the prejudices of the Ministers.<sup>130</sup> Nevertheless there was also a widely shared belief, best articulated by Dr Carlyle, that in contrast to 'the iniquitous city life, full of crime, vice and drunkenness, rural village life was the virtuous preference'.<sup>131</sup>

Whereas Edinburgh and Leith had autonomous Town Council and Bailie governance, the vast proportion of the remaining rural shire was subject to a tripartite system of local government undertaken by Justices of the Peace, Commissioners of Supply and the Sheriff.<sup>132</sup> Only the semi-urban towns of Musselburgh to the east and Dalkeith to the south of the city were burghs with their own Town Council established according to their sett.

Musselburgh within the parish of Inveresk was a market town which generated its own centre of activity. As an ancient burgh of regality, the Town Council comprised ten members representing Musselburgh proper on the east bank of the river Esk and eight representing Fisherrow on the west side nearest Edinburgh. The town had seven incorporations trading and was renowned for its market garden produce which supplied the city. Being on a principal route, it was a stopping point for the daily London stage and mail coaches as well as the more regular coaches to and from Dunbar, North Berwick and Haddington. Amongst the landmarks still extant are the tolbooth which was erected in 1590 and the steeple on St Michael's Church in Inveresk village which dates from 1805.<sup>133</sup>



Dalkeith within the parish of Dalkeith was also a market town and burgh of barony under the Duke of Buccleuch. After the abolition of heritable jurisdictions in 1747 reduced the power of the Baron Bailies, a local statute passed in 1759 for twenty-one years and repeatedly renewed, ordained the appointment of twelve trustees which included the Baron Bailie, with administrative powers to supply the town with water, paving, cleansing and lighting of the streets. Town revenues of £600 annually was derived from water duty, sale of dung and impost on ale brewed. Dalkeith was also a focal point for transport to the south of the city and by 1831 had an eight mile railway to the city.<sup>134</sup>

To strengthen shire governance, Justices of the Peace were introduced into Scotland in 1609 by James VI. However the legal transplant to be the King's representative in the countryside replacing the Sheriff failed to develop by the Act of Union in 1707. The Union with Scotland (Amendment) Act, 1707 restated the need to appoint a 'sufficient number of good and lawful men to be justices of the peace within their respective shires, stewarties, cities, boroughs, liberties or precincts' but specifically excluded Edinburgh and other Royal Burghs from this requirement. Though JP's in Scotland were intended to have criminal jurisdiction, they never had the opportunity to deal with serious non-capital crimes.<sup>135</sup> Once the position of the Sheriffs Depute was strengthened in 1747 and placed under Government control, JP's in Scotland were destined never to be more than a complement to the Sheriffs.<sup>136</sup>

The formal organisation of Scottish JP's was very similar to the English, with members expected to act in petty, quarter, general and special sessions. Quarter sessions were meetings of all JP's in the county to hear cases appropriate to this jurisdiction and to make administrative decisions for the county. By the APS 1661, quarter sessions were required to meet on the first Tuesday of March, May and August and the last Tuesday of October. Petty sessions were for JP's to deal with petty crime coming to notice. In Edinburghshire, the main JP Court sat in Edinburgh and dealt with petty crime outwith Edinburgh and Leith. In addition, Small Debt JP Courts also sat in Musselburgh and Dalkeith.<sup>137</sup>

Although there was no specific or monetary requirements, all decisions appointing commissions of the peace were taken locally - by the Sheriff, the Member of Parliament and one or two of the major landowners. Thus JP's tended to be limited to the landed gentry within the shire. The number of JP's increased after the Napoleonic wars, but their numbers never exceeded the number of heritors. After 1825 solicitors and procurators fiscal were debarred from acting as JP's. Apart from their role in criminal justice JP's had an administrative role in relation to matters such as wage price controls, weights and measures, maintenance of roads, and licensing of public houses; and also a civil law role in relation to small debt.<sup>138</sup> In particular, after the Licensing Act of 1756, JP's were required to give regular attention to licensing of public houses in the shire outwith Royal Burghs.<sup>139</sup>

The system of JP's in Scotland failed to dominate local government because they did not, enjoy total control of shire administration. In particular, Commissioners of Supply established in 1667 in Scotland for the purpose of collecting the land tax or cess, controlled finance. Commissioners of Supply were appointed from among the landowners known as 'heritors' and they met separately with the power to nominate a convenor and employ a collector and a clerk of supply.<sup>140</sup>

Qualifications for Commissioners of Supply and heritors rested on possession of estates with certain valued rents.<sup>141</sup> By the beginning of the 19<sup>th</sup> century their functions also included raising revenue for shire roads, bridges and ferries which was applied after liaison with JP's and also raising money for the cost of apprehending and prosecuting criminals under the Rogue Act, 1724.<sup>142</sup> The annual statutory meeting in the Land Tax Act was called by the Sheriff, but, over time meetings became more regular due to increased responsibilities. The amount of land tax to be collected was assigned to each county in the Land Tax Act and the Commissioners had two duties - to allocate the tax amongst heritors and to see that the tax was paid. Since the land tax was based on valued rent set in 1667 and not in real value of land, the increased responsibilities of Commissioners related to dividing valuations by land sales and acquisitions.<sup>143</sup>

The Sheriff Depute and Sheriff Substitute had the pre-eminent roles in early 19<sup>th</sup> century Scottish local (shire) government in matters administrative, civil and criminal. As they and their officials are examined in greater detail in regard to the contemporary system of criminal justice in Scotland, only their administrative and civil role need be mentioned. As regards administrative functions, the Sheriff Depute attended meetings of JP's and Commissioners of Supply, executed all exchequer writs, accounted for Crown dues and duties in the sherrifdom, received writs for parliamentary elections and struck the fiars.<sup>144</sup> Their jurisdiction to hear civil actions at first instance was extensive following the abolition of local courts in 1747 and probably more intensive reflecting a growing population and complexity of commercial activity.<sup>145</sup> Indeed their jurisdiction became more extensive after the abolition of Commissary Courts in 1825 and the abolition of the High Court of Admiralty in 1830.<sup>146</sup>

As regards the wider socio-economic focus, the rural shire particularly to the east and south, was rich agricultural land. Dung mixed with ashes was in plentiful supply from the city and hence there was no need to use lime. The parish of Cramond alone obtained ten thousand carts of such manure from Edinburgh and Leith yearly at 1/- to 1/6d carriage per cart.<sup>147</sup> Agricultural improvements during the latter part of the 18<sup>th</sup> century had a major impact, driving many workers of the land. The parish of Collington placed the two horse plough about the year 1770 as 'one of the greatest improvements that has yet taken place in the husbandry of Scotland' and calculated the consequential reduction in rural labour.<sup>148</sup> Rent of land from heritors in the shire varied from £3 to £7 per acre and cereal and potato crops were the main produce.<sup>149</sup> A married ploughman earned 1/- each working day or about £16 per annum and although he received all his 'perquisites', the rent of a cottage house cost between 15/- to 40/- a year.<sup>150</sup>

Industries and manufactories were also well developed in several parishes in the shire. Coal was the indigenous mineral mined for centuries especially in the parishes of Duddingston, Inveresk, Newton, Newbattle and Cockpen ringing the city from the east to south west.<sup>151</sup> The parish of Inveresk which included Musselburgh reported almost six

hundred persons employed in mines, producing 54,000 tons of coal yearly.<sup>152</sup> Musselburgh was also a fishing port and fish wives reputedly carried 200 lb. burdens of fish on their backs to the city before mid-day, four days per week.<sup>153</sup>

Manufactories were more diverse. Although a market-town, Musselburgh had two hundred cotton looms, a brewery and three tanneries with raw hides procured from Edinburgh, Russia and Hamburg.<sup>154</sup> Two miles south, at Cousland in the parish of Cranston, tar and bricks were manufactured.<sup>155</sup> Dalkeith seven miles to the south of Edinburgh was the only other market town within the shire and had corn and woollen as well as famous 'tambour' factories.<sup>156</sup> The nearby village of Gorebridge employed three hundred persons in the manufacture of gunpowder.<sup>157</sup> Penicuik located further south on the river Esk which flowed to Dalkeith and Musselburgh, had extensive paper mills. The industry was disrupted between 1810 and 1814 when the Government requisitioned the depots for French prisoners of war and occupied the cottages of workers as barracks.<sup>158</sup> To the west of the city, the parish of Collington had sixteen mills on the Water of Leith, ten preparing flour, meal or barley for markets and four making paper.<sup>159</sup> Even the parish of Cramond which had iron works established in 1771, had paper mills operating in 1815.<sup>160</sup>

Although the national wage trends across Scotland have been indicated within the economic perspective, there were clearly regional differences. Whereas a ploughman at the beginning of the 19<sup>th</sup> century in Edinburghshire earned a 1/- per working day:

- field women earned 6d per day;
- reapers earned 6d to 1/- per day during harvest time; and
- hay cutters earned 1/6d to 1/8d per day.<sup>188</sup>

In contrast to these typical agricultural wages, in Edinburgh masons earned 1/8d per day or 10/- weekly, and carpenters earned 1/2d per day or 7/- weekly. Ordinary labourers earned 10d per day or about 5/- to 6/- weekly and this only rose to 1/6d per day or 9/- weekly, forty years later.<sup>162</sup> A collier could earn between 9/- and 12/- per week, so clearly the thirty men employed in iron manufacture at Cramond, who earned 26/- per week, had well above the average earnings.<sup>163</sup> It would appear therefore that the labourers and

artisans in Edinburgh had wages slightly less than those in Glasgow, which have been quoted by Smout.<sup>164</sup>

Despite the relatively small number of persons responsible for local political decision making and direction, the *Statistical Accounts* suggest, that the wider populace enjoyed a reasonable lifestyle with importance placed on education and entertainment. It is known that in 1805, Edinburghshire which included the city, had two hundred and ten heritors eligible to act, as Commissioners of Supply.<sup>165</sup> Figure 1E which is based on extracts from the *New Statistical Account* reveals that at least one hundred and sixteen heritors (i.e. 55%) resided in the rural shire. Figure 1E which can be related to the shire populations detailed in Figure 1A, reveals a generous distribution of parish schools and libraries, and an obvious over supply in places of public houses often referred to as 'dram shops'. The parish of Inveresk returned by far the highest number of poor claiming relief, but the three hundred and twenty persons on the poor roll represented only 3.5% of the parish population in 1831.

**Figure 1E - Shire Profile Of Heritors, Schools, Public Houses & Poor Claiming Relief**

PARISH	HERITORS	NUMBER OF SCHOOLS	PUBLIC HOUSES	POOR ROLL
Duddingston	4	13+ library	18	76
Liberton		10+2 libraries	32	
Colinton	11	7+2 libraries	14	41
Corstorphine				
Cramond	8	6		60
Kirkliston	10	5	several	51
Ratho		3+ library	8	26
Currie	12	2+ library	7	46
Kirknewton	15	2	7	51
Mid Calder				
West Calder		2		10 to 15
Penicuik	13	8+ library		40
Glencourse		1	several	8
Lasswade		8+2 libraries		75
Dalkeith	1+	10+2 libraries	110	40
Newton	3	4	14	35
Inveresk	8	3+ library	85	320
Cranston	4	3+ library	8	22
Newbattle		2	5	39
Cockpen	6	1	9	57
Carrington	3	1		16
Temple	2	6+ library		16 to 18
Borthwick		3		25
Crichton		5+ library		35
Fala & Soutra		1		few
Heriot		1+ library		3
Stow	16	4+ library	11	20 to 24

SOURCE: Extracted from NSA, Volume 1 - Edinburghshire (1845)

## INFLUENCE OF NATIONAL GOVERNMENT

Although the state of Edinburgh and Edinburghshire has been described from local political, economic and social perspectives, local decision making was subject to varying influences from national Government. The Union with Scotland Act, 1707 provided for the return of sixteen Peers and forty-five Commissioners from Scotland to Parliament.<sup>194</sup> The Commissioners represented both rural and urban interests. In particular, the thirty-three counties or shires in Scotland returned thirty commissioners or knights of the shire to the House of Commons - basically one for each shire but with six of the smaller shires represented by three commissioners. The other fifteen commissioners returned to the Commons were elected from fixed groupings of the sixty-six Royal Burghs in Scotland.<sup>166</sup>

Further elaboration of the breakdown on national government representation prior to the first Reform Act is gained from the *Analysis of the Statistical Account of Scotland* published in 1825.<sup>167</sup> Figure 1F details for those shires illustrated in Figure 1A, the area, valued rent, and number of electors at Michaelmas 1822 against the population size in 1821.

**Figure 1F - Table Of Landed Representation**

SHIRE	AREA SQ. MILES	VALUED RENT £(Scots)	NO OF ELECTORS IN 1822	POPULATION IN 1821
Edinburgh	354	191,054	178*	191,514
Haddington	272	168,875	102	35,127
Berwick	442	178,366	131	33,385
Roxburgh	715	314,663	138	40,676
Selkirk	264	80,307	38	6,637
Peebles	319	51,937	46	10,046
Lanark	945	162,181	164	244,387
Linlithgow	120	75,018	65	22,686

\* Edinburghshire had 95 voters in 1790 and 123 voters in 1811

SOURCE: Extracts from Sir John Sinclair: *Analysis of the Statistical Account of Scotland* (1825) Chapter IV

The franchise and qualification to be an MP fell to freeholders of Crown land amounting to at least £400 scots (about £35 sterling) of valued rent - that being the rent on which the land tax and other assessments were levied.<sup>168</sup> Given each of these shires returned one member in elections to the House of Commons, electoral representation based on valued

rents was manifestly iniquitous and compounded by the abuse of 'parchment' votes by the owners of superiorities.

Edinburgh itself was the only single burgh constituency in Scotland and its returns throughout this period antedated the others from Scotland. Although its local government lay with the Town Council, for the purpose of electing its Lord Provost and Bailies and its Member of Parliament, the Town Council was augmented by eight deacons. Figure 1G lists MP's elected for Edinburgh and Edinburghshire between the period 1800 to 1833.

**Figure 1G - Members Of Parliament Elected 1800 - 1833**

YEAR	EDINBURGH	EDINBURGHSHIRE
June 1790	Henry Dundas (From June 1790)	Robert Dundas (From June 1790)
July 1802	' '	' '
Jan 1803	Charles Hope	' '
Jan 1805	George Abercromby	' '
Nov 1806	Sir Patrick Murray	' '
May 1807	' '	' '
March 1812	William Dundas	Sir George Clerk Bt (From July 1811)
Oct 1812	' '	' '
Aug 1814	' '	' '
June 1818	' '	' '
July 1819	' '	' '
March 1832	Francis Jeffrey	Sir John H Dalrymple Bt

**SOURCE:** History of Parliament: The Commons 1790-1820 &  
British Parliamentary Election Results 1832-1885 (NLS)

The political power and patronage of Henry Dundas, latterly Viscount Melville during his *terms of public office is well documented*.<sup>169</sup> His influence in public affairs continued after his elevation to the House of Lords in 1802 for both Charles Hope and Sir Patrick Murray were his brothers in law and Robert Dundas was his nephew. Moreover the self perpetuating manner of elections were well reported in newspapers of the period. Thus

after being elected on 12 July 1802 as MP for Edinburgh, Henry Dundas chaired and canvassed at the meeting on 24 July 1802 of electors for the county of Edinburgh, to elect Robert Dundas for his second term of office as MP. Moreover, on being raised to the peerage as Lord Viscount Melville in December 1802, Henry Dundas sent a letter of gratitude to Edinburgh Town Council and after intimating his necessary resignation as MP for the city, he drew attention to Lord Advocate Hope as being 'peculiarly qualified' for the task by virtue of his 'superior talents.' Indeed Hope submitted a letter offering his services almost simultaneously and he was duly elected by the Town Council in January 1803.<sup>170</sup>

Whilst the influence of central Government on local decision making is difficult to assess beyond initiatives either expressly promoted or vetoed at Parliamentary level, formal structures of governance did facilitate the interplay and exchange of ideas and proposals. The openness of communication between central and local government and particularly between the Town Council and the merchants and incorporated trades on important issues should not be underestimated. Details of petitions to HM Government and local letters and resolutions and replies were tediously recorded for posterity in the minute books of Council meetings. Moreover, newspapers and magazines of the period more often than not reported verbatim dispatches on most major events. Fundamental dissent on important issues was often brought to notice by publication of pamphlets by pseudonymous authors and thereafter discussed publicly in newspapers. Nevertheless the fact that, beyond the formal structures, there was an informal network of influential people will become more transparent when the connections between the political and legal establishments, are examined in the next chapter.



## **Chapter Two - CRIMINAL JUSTICE AND EXISTING POLICE AND SYSTEMS OF POLICE CIRCA 1800**

### **BACKGROUND**

Having outlined the state of Edinburgh and Edinburghshire between 1800 and 1833 from political, economic and social perspectives, this chapter describes in more detail the functioning of criminal justice throughout the shire. In particular, the framework of both national and local Courts exercising criminal jurisdiction is described in terms of the judiciary and prosecution services. Also included is the contribution of the existing Police and systems of police in maintaining law and order in a rapidly expanding society at the beginning of the 19<sup>th</sup> century which placed importance on public safety as well as crime prevention and detection. Such background is required to help explain the pressures for change and why the new Police and system of police emerged in the form later described.

### **NATIONAL COURT WITH CRIMINAL JURISDICTION**

By 1800, Scotland had a well established legal system which placed high value on both civil and criminal justice in society. The institutional writers recognised that from its roots in the 13<sup>th</sup> century, the Scottish legal system had experienced and developed from different sources and influences than its counterparts south of the border. Indeed the separate continuance of Scots law and the Scottish Courts had been entrenched under the Treaty of Union, Article XIX. When the Government proposed in 1785 to reduce the number of judges in the Court of Session from fifteen to ten in order to increase the salaries of the remainder, there was understandably a 'hue and cry' by the Scottish gentry and nobility which successfully averted change. One consequence of being a small nation, was that Court functionaries at both national and local shire level in the main exercised concurrent civil and criminal jurisdictions and therefore reference must be made to both branches of justice.<sup>1</sup>

As regards civil justice, the Court of Session established in 1532 was the superior Court of first instance and appeal in Scotland. Only after the Union was it decided that a higher

appeal could be made in civil cases to the House of Lords.<sup>2</sup> Until 1808 the 'hail fifteen' judges or Lords of Session sat as a group in Parliament House in Edinburgh but increasing commerce and industry brought about pressures for reform. In 1808 the Court of Session was divided into two Divisions - the First Division headed by the Lord President and the Second Division headed by the Lord Justice Clerk. Following the recommendations of a Royal Commission, civil jury trials were introduced in 1815 on the English model. Further reform in 1825 reduced the First and Second Division known as the Inner House to appellate functions with the Lord President and the Lord Justice-Clerk respectively in each Division sitting with three Lords of Session. The remaining seven judges became Lords Ordinary individually sitting in the Outer House to hear cases at first instance.<sup>3</sup>

As regards criminal justice, Baron Hume traced the early history and development of the office of the Justiciar General at national level in Scotland and explained the functioning of the High Court of Justiciary after its creation in 1672.<sup>4</sup> Being the highest criminal Court of both first instance and appeal in Scotland, again sitting in Edinburgh, it comprised the Lord Justice-General, Lord Justice-Clerk and five Lords of Session sitting as Lords Commissioners of Justiciary. Originally a quorum of four judges was required, but this was reduced to three in 1681 and remained the practice well into the 19<sup>th</sup> century.<sup>5</sup> Although the High Court sat principally in Edinburgh as a Court of both first instance and appeal, as a Court of first instance it could travel whenever necessary to prescribed circuit court locations throughout Scotland.<sup>6</sup> Its jurisdiction extended to all cases of crime except where it had been excluded by statute, and it always had exclusive jurisdiction in the more serious crimes of treason and the four pleas of the Crown - murder, rape, robbery and fireraising.<sup>7</sup> The High Court of Justiciary could impose sentence of death, corporal pain or transportation according to statute.

Whilst in both civil and criminal cases the Lord Justice Clerk (LJC) was one and the same second highest ranking Judge in Scotland, the highest offices of Lord President (LP) in the Court of Session and Lord Justice General (LJG) in the High Court of Justiciary were not conjoined until 1836. Government importance placed on these offices can be assessed from the fact that in 1810, the salary of the Lord President was raised to £4,300 sterling per annum (previously £3,000 since 1799) and that of the Lord Justice Clerk, was raised to

£4,000. Apart from their judicial role however, the judges had a wider political role in the running of the country albeit they were not dismissable by the Government.<sup>8</sup> Figure 2A lists these office holders during the period 1800 - 1833.

**Figure 2A - Senior Judiciary 1800-1833**

Year	Lord President	Lord Justice General	Lord Justice Clerk
1782			David Rae of Esk Grove
1789	Ilay Campbell of Succoth	James Graham 3rd Duke of Montrose (1795-1836)	
1804			Charles Hope of Granton
1808	Robert Blair of Avonton		
1811	Charles Hope of Granton (until 1841)		David Boyle (until 1841)
1836		Charles Hope of Granton (until 1841)	

SOURCE: Extracted from Senators of the College of Justice from 1532: George Brunton and David Haig (1836)

The career of Lord President Hope illustrates the nexus between the political and legal establishments.<sup>9</sup> As Charles Hope of Granton, he was admitted as an advocate in 1784, was Sheriff of Orkney from 1792 and became Lord Advocate after Robert Dundas in June 1801 when elected by the Dumfries burghs. In January 1803 he was elected for Edinburgh after Henry Dundas received his peerage. However his political career was short lived for in 1804 he became Lord Justice Clerk after the death of LJC Rae. Finally he became Lord President in 1811 after the death of LP Blair, an office he held until retiring from the Bench in 1841.

Prosecutions in the High Court of Justiciary have always been at the instance of the Lord Advocate who as Chief Law Officer for Scotland represented the public interest.<sup>10</sup> The important principle of prosecution in the public interest developed during the 16<sup>th</sup> century in Scotland. Nevertheless private prosecutions of less serious crimes were common and indeed an Act of 1587 recognised the claim to expenses of a person accused by individuals and acquitted. However under the same Act no claim for costs could be successfully maintained against the 'Kings Advocate' in the capacity of public prosecutor and it was later decided that he was not bound to disclose the informer.<sup>11</sup>

For the purpose of public prosecution the Lord Advocate had the assistance of the Solicitor General for Scotland and Advocates Depute.<sup>12</sup> Defence counsel were drawn from the Faculty of Advocates who had operated a system of free legal aid for the poor since 1587.<sup>13</sup> The careers of Lord Advocates also demonstrate the links between the political and legal establishment. Indeed Cockburn pointed to the conflict of interest which could arise and explained 'the causes and temptations which may make his position injurious to his purely accusative virtues'.<sup>14</sup> Figure 2B profiles Lord Advocates holding office between 1800 and 1833.

**Figure 2B - Lord Advocates 1800-1833**

Year	Lord Advocate	Political and Legal Profile
1801	Charles Hope	1792 Sheriff of Orkney 1802/1803 Elected Dumfries and Edinburghshire 1811 Lord President
1804	Sir James Montgomery	Elected for Peeblesshire between 1800-1831
1806	Hon Henry Erskine (2nd occasion)	1783 Lord Advocate 1806 Elected for Haddington burghs
1807	Archibald Campbell	1807 Elected for Elgin burghs 1812 Elected for Dumbartonshire 1816 appointed Lord Clerk Register
1816	Alexander Maconochie	1810 Sheriff of Haddingtonshire 1818 Elected to Bench as Lord Meadowbank
1819	Sir William Rae	1810 Sheriff of Midlothian 1819 Elected for Anstruther burghs
1830	Francis Jeffrey	1794 Advocate - Reforming Whig 1834 Elevated to Bench as Lord Jeffrey

SOURCE: Extracted from The Lord Advocates Of Scotland (1883) Volume II

## LOCAL COURTS WITH CRIMINAL JURISDICTION

As regards courts with criminal jurisdiction at local shire level, by the beginning of the 19<sup>th</sup> century, the two level system of the Sheriff Court dealing with less serious non-capital crimes, above the Magistrates or JP Court dealing with petty crimes and offences, was well established. The incongruous combination of barony and regality jurisdictions had been gradually abolished by the Heritable Jurisdictions (Scotland) Act, 1746 and those which functioned for a while after that Act had their criminal jurisdiction severely curtailed. Although the position of the Sheriff Depute had strengthened, within Edinburghshire the historic privileges of Edinburgh as a Royal Burgh still prevailed, and therefore the

arrangements for criminal courts in Edinburgh and Leith, were different and mutually exclusive from the criminal courts for the shire.<sup>15</sup>

Within Edinburgh, the King had invested in the Lord Provost judicial powers equivalent to a High Sheriff who could hear criminal trials with an assize.<sup>16</sup> Thus although the Lord Provost need not have legal training, he could and did hear criminal trials with a jury. In Edinburgh this judicial power was exercised sparingly and may only have been undertaken by Lord Provosts with some legal knowledge. One single volume records sixteen criminal trials before the Lord Provost with Assize between 1789 and 1828, but one case is recorded in full in 1789 and the other fifteen cases are summarised between November 1826 and August 1828.<sup>17</sup> Following modern precedent, the cases heard before the Sheriff and Jury were deemed serious enough to merit a higher sentence than that available to Magistrates, but less serious than those meriting remit to the High Court of Justiciary.

As a matter of interest, of the sixteen criminal trials before the Lord Provost with Assize between 1789 and 1828, female accused or co-accused featured in twelve cases. As not all the cases against female accused involved the issue of 'habit and repute thief' (an aggravation of theft by previous convictions) it may have been the custom that challenging the reputation of a woman charged with ordinary theft was a criteria for jury trial. For example while the charge on 10 November 1826 against Jean Brown or McKenzie of stealing £13 in notes from a house in Milnes Court was found not proven; the charge on 10 October 1827 against Janet Gardner or Henderson, being a 'habit and repute thief' of stealing a shawl from a house was found proven and she received twelve months imprisonment in the Bridewell. During the trial of Jean Brown or McKenzie, the defence made objection to Lord Provost Trotter sitting as a judge in contradiction to the statute 20 Geo II c43. However this was overruled, for section 30 of the 1746 Act specifically declared that the abolition of heritable jurisdictions did not apply in Royal Burghs. Indeed the judicial authority of the Lord Provost lasted until 1834.<sup>18</sup>

Whereas the Lord Provost as High Sheriff had judicial powers equivalent to a Sheriff Depute, the four Bailies in Edinburgh were invested with judicial authority equivalent to Sheriffs Substitute and were also deemed Justices of the Peace. Each Bailie took turn

sitting as Judge in the Bailie Court within the Council Chamber. Whilst Arnot refers to each Bailie sitting for three months at a time for the dispatch of business, by 1812 the practice became one month at a time. The records of Bailie Court processes, fines and fees between 1800 and 1833 are scant, but it is possible to discern the salient features of procedures and substance.<sup>19</sup> Thus during a typical month September 1815, Bailie Arbuthnot (later Lord Provost 1821) heard thirty-five cases prosecuted by the Procurator Fiscal. The cases prosecuted included: - nine charges of 'insufficient' weights; - fourteen charges relating to 'light' bread; - three charges of bread 'not marked'; and - two charges relating to 'Sunday opening' which were all preferred against shopkeepers. Although unnamed, fines annotated ranged from 5/- to £1-1-0 and totalled £19-10-6d for the month. Thus apart from the period 1805 to 1812 when a new Police Court functioned, the Bailie Court in Edinburgh dealt exclusively with frauds against city revenue, like failure to use proper weights and measures or observe market regulations. Within the city limits separate Bailie Courts existed for the Burgh of Canongate and the Barony of Portsburgh covering the Eight Southern Districts. Whilst there are no records extant for Canongate Bailie Court, there are Portsburgh Bailie Court processes extant for the period 1816 to 1823.<sup>20</sup>

The Bailies also held a Criminal Court, but according to Arnot, the proceedings were irregular and no records were kept. As a consequence of the judicial role of Bailies in Edinburgh, their JP's role concerned only the granting of liquor licenses. Evidence that the Bailies dealt summary justice can only be drawn from Edinburgh Tolbooth records and the regular accounts of jail dues submitted to the Town Council. An Act of Council dated 17 July 1728 and revised 15 September 1810, provided Regulations for the Jail of Edinburgh and also prescribed jail dues due by criminal prisoners and civil debtors. The lack of prosecutions for petty crime and other 'street offences' at the beginning of the 19<sup>th</sup> century in the Scottish metropolis only becomes apparent after the commencement of the Edinburgh Police Act in 1805.<sup>21</sup>

The Procurator Fiscal was appointed by the Sheriff Depute for the purpose of prosecuting criminal cases before local courts. The office was subordinate to that of Lord Advocate and developed during the 16<sup>th</sup> century as an agent for the Sheriff in the collection of fines.<sup>22</sup> The importance of the office grew during the latter part of the 18<sup>th</sup> century in tandem with

the increasing competence of Sheriffs Depute to tackle local crime. At the beginning of the 19<sup>th</sup> century throughout Scotland, private prosecutions for less serious crimes was still the norm, but they required the concurrence of the Procurator Fiscal locally for which a fee was charged.<sup>23</sup>

When William Sprott intimated his intended retiral in October 1807, after 27 years service as the Procurator Fiscal in Edinburgh, a Town Council Committee was formed to enquire into the state of the office and to consider the fees, duties and regulations that required to be adopted. The Committee reported that the duty of any Procurator Fiscal:

Is to prosecute *ad vindictum publicam* in all petty riots, thefts, and offences against any penal Statutes, All actions which involve pains and penalties against the offender as well as damages to the sufferer, are either brought at his instance, or by the private party with his concurrence; and although he cannot be compelled to give his instance, he cannot refuse his concurrence.

In addition to a salary which is not specified, the Procurator Fiscal was entitled to claim one third of all fines which he divided equally with the Clerk of Court.<sup>24</sup>

On appointing Alex Ponton, solicitor, as the new Procurator Fiscal for the City, the Town Council also adopted eight recommendations from the Committee Report to be published as Regulations for public notice. The main change of accountability was that in future, any action raised by the Procurator Fiscal required a written order from a Magistrate. The salary continued but the PF was now entitled to a charge of 2/6d for his concurrence to any private action. The other changes were procedural inasmuch as in future, one sixth of the fines went to the clerks, and the other one sixth was retained by the Fiscal. A book was required to be kept naming everyone so fined and the amount, with accounts to be drawn up in April and October each year.<sup>25</sup>

The town of Leith was covered by two Bailie Courts. North Leith being part of the Burgh of Canongate came under the jurisdiction of the Bailie Court of Canongate for which no records are extant. The so-called 'Bailies of Leith' - the Baron Bailie and Judge Admiral of Leith and the two Resident Bailies heard both civil and criminal cases arising exclusively within the Barony of South Leith.<sup>26</sup> The Bailie Court of (South) Leith sat twice weekly on

Mondays and Fridays in the Tolbooth and dealt with both civil and criminal cases. Orders issued by the Magistrates of Leith in 1712 indicate the duties undertaken by four so-called Town Officers at least until 1813.<sup>27</sup> Upon every Court day the 'Officers of Leith' attended at the Tolbooth by ten o'clock to meet the Magistrates arrival at eleven o'clock. One officer was directed to usher the Magistrates upstairs to the Bench within the Court place and to remain standing on guard with his halberd to the left side of the Bench during the sitting. This officer was responsible for calling out loud the whole actions of the day. Another officer was posted at the entrance door to the Court, again with the halberd, to regulate the coming and going of witnesses and any public who were commanded to remain silent upon pain of imprisonment. The other two officers were posted 'within the outer door of the Tolbooth' for receiving the Magistrates directions, and bringing 'all offenders from the prison to the barre'. Lastly, at the rising of the Court 'the haill four Officers' had to take their halberds to the foot of the Tolbooth stairs and guard the Magistrates as they walked to the place where they wished to dine.<sup>28</sup> One officer would remain to attend the Magistrate whilst within the bounds of South Leith and could call together the others if required for any reason. In 1800 the Town Officers petitioned the Magistrates and stent masters of Leith seeking a rise in their £5 sterling salary per annum which had remained the same for forty years.<sup>29</sup>

Outwith Edinburgh and Leith, the Sheriff Depute had the predominant role in matters criminal, overseeing the functioning of the 'inferior' JP Court for the shire and also exercising jurisdiction in non-capital cases before the Sheriff Court. The Sheriff Depute for the shire also had a concurrent jurisdiction with the Bailies in the city, and although the Sheriff Court was also located in Edinburgh, there is no evidence of conflict between these jurisdictions. There are no records extant for the functioning of Midlothian Sheriff Court over the period 1800 to 1833. Justice of the Peace records extant commence in 1798 but cover only 'small debt' civil actions at Musselburgh and Dalkeith. A Weights and Measures Court Book covers the period 1828 to 1851 and a register of ale licence certificates granted also commences in 1828.<sup>30</sup>

The office of Sheriff in Scotland is of great antiquity and predates the Commissioners of Justiciary and indeed the Lords of Session in the 'superior' national Courts. The



establishment and spread of sheriffdoms and the office of Sheriff in Scotland is attributed to Alexander I and David I in the 12<sup>th</sup> century. The model was imported from England as the king's judicial, financial, administrative and military officer. Sheriffs were appointed from amongst the Scoto-Norman barons over the whole Kingdom, showing the power of central Government and gradually the office became almost uniformly heritable. By the beginning of the 19<sup>th</sup> century the Sheriff Depute was the key administrative and judicial figure in the shire and the significance of that office has to be appreciated.<sup>31</sup>

The Sheriff performed a key role in the administration of justice both before and after the establishment of the High court of Justiciary. Sheriffs not only obtained information by precognition for the presentment of crimes to the High Court, but actually attended various sittings as directed by the Lords of Justiciary. Indeed detailed rules were available specifying how investigations, particularly for murder should be conducted, how to take precognitions, and make presentments to the Crown Agent at Edinburgh. Thus Sheriffs actually attended at the scenes of suspicious deaths, arranged post-mortem examination, and took witness statements and judicial declarations from suspects.<sup>32</sup>

The abolition of most heritable jurisdictions in 1747 resulted in the immediate strengthening of local Sheriff Courts. Newly appointed Sheriffs Depute had to be advocates with at least three years experience and this requirement placed them amongst the legal and social elite of Scotland. By 1770, Sheriffs Depute were appointed for life under the principle *ad vitam aut culpam*.<sup>33</sup> Certain offices of High Sheriff with the same judicial authority of Sheriff Depute continued to function after the 1747 Act, as in the case of the Lord Provost of Edinburgh. Other heritable offices of High Sheriff continued but without legal functions as in the case of Edinburghshire.<sup>34</sup>

The Sheriff Substitute was appointed and paid a salary by the Sheriff Depute. The Government allowed Sheriffs Depute to live in Edinburgh as practising lawyers and only required four months residence in the Sheriffdom and compulsory court appearances. Whilst Sheriffs Depute received £150 to £250 to cover their own salaries and expenses, the Sheriffs Substitute after 1746, typically received salaries from £10 to £50 per year.<sup>35</sup> The Government by Warrant made substantial increases in salaries for Sheriffs Substitute

at the beginning of the 19<sup>th</sup> century and thereby attracted legally qualified persons.<sup>36</sup> Throughout Scotland, the Sheriff Substitute acted more often than the Sheriff Depute, as the judge of civil and criminal cases before the Sheriff Court.<sup>37</sup> In Edinburghshire the Sheriff Depute heard the more important cases and undertook a range of administrative functions including the chairmanship meetings of both the Commissioners of Supply and JP Quarter Sessions.

The role of Sheriff Depute and Substitute in the administration of justice at shire level was made more effective during the early part of the 19<sup>th</sup> century by strengthening the calibre of officials in the Court system infrastructure. The Sheriff Clerk was also drawn from a legal background and from 1814 responsibility for appointments to the post was transferred to Government.<sup>38</sup> While the Procurator Fiscal was still appointed by the Sheriff Depute, from 1776 onwards, Government began paying the Procurators Fiscal for undertaking precognitions in criminal cases, thus freeing more time for Sheriffs to undertake their judicial role.<sup>39</sup> The Sheriffs could also appoint Sheriff officers to undertake civil diligence and the serving of writs.<sup>40</sup>

Being such important figures with life tenures in local administrative and judicial matters, Sheriffs Depute tended to hold office for considerable periods of time with change brought about by either promotion or death. During the early part of the 19<sup>th</sup> century, Sheriffs Depute for Edinburghshire were:

- James Clerk-Rattray, between 16 November 1793 and 23 May 1809 before being elevated to Baron of Exchequer. He was born 1763 and died 1831;
- Sir William Rae, between 23 May 1809 and 23 July 1819, before being elevated to Lord Advocate. He was born 1769 and died 1842; and
- Adam Duff, between 23 July 1819 until 17 May 1840 when he died.

Being admitted Advocates, each of the Sheriffs Depute brought a high degree of competence and experience to their office which added value and continuity of principle in criminal justice.<sup>41</sup>

## OLD POLICE AND SYSTEMS OF POLICE

Whereas the infrastructure of Scottish criminal justice in terms of national and local Courts with a well qualified judiciary had been reformed and was relatively effective at the beginning of the 19<sup>th</sup> century, the process of detecting offenders still depended upon unreformed Police and systems of police that were increasingly perceived to be inadequate. In essence, criminal justice was assured when offenders were detected and brought before the Courts, but the weakness of the system lay in the uncertainty of detection. Apart from detecting offenders for the more serious capital crimes in which the Sheriff usually took the lead in investigations, prosecutions for less serious crime depended more or less on being caught in the act. Prosecution of public welfare offences essentially depended upon private individual initiative with the concurrence of the Procurator Fiscal. Such private prosecutions depended upon the principle of 'moiety' which meant that the individual raising the case was entitled to half of any fine imposed.

Reference is made to old systems of police at the beginning of the 19<sup>th</sup> century because there was more than one system in operation throughout Edinburghshire. The city had a Society of Constables along with a militia type body known as the City Guard both organised under the Lord Provost. The City Constables were part-time whilst holding other employment and received only fees of court for prosecutions. They were originally introduced in 1611 and covered the Ancient Royalty but their territorial jurisdiction increased at subsequent dates thereafter in line with the Extended Royalty. The City Guard were established in 1690 but confined to the limits of the Ancient Royalty. Increases in territorial jurisdiction resulted in an Act of 1771 which provided for lighting, cleansing, and watching in the Southern Districts, and another Act of 1772 which provided for the same provisions in Canongate, Pleasance and Leith Wynd. The town of Leith also had their own Society of Constables, but apart from the four Town Officers, had no militia type guard. Following the Leith Police Act in 1771, a paid full-time Police officer was introduced. The rest of the shire had traditional Parish Constables under Justices of the Peace first introduced in Scotland by an APS of 1617.

## CITY CONSTABLES

Edinburgh was the first town in Scotland to introduce an unique system of City Constables that contributed to the maintenance of law and order well into the 19<sup>th</sup> century. Prior to the 17<sup>th</sup> century, city burgesses performed the ancient personal service known as 'watching and warding' for the internal defence of the town which was protected externally by high walls and portcullis gates.<sup>42</sup> This personal service originated from the 'Laws of the Four Burghs' enacted by David 1 (1125-1153) for Edinburgh, Stirling, Berwick and Roxburgh, and was the same obligation as that referred to in the Domesday book.<sup>43</sup>

As early as 1498, the Town Council issued an order instructing all merchants and tradesmen to provide weapons in their booths and to assist the Magistrates in case of 'tulzies' in the streets. This order was frequently renewed by Acts of Council throughout the 16<sup>th</sup> century.<sup>44</sup> Acts of the Parliament of Scotland (APS) in 1592 c75 and 1597 c46 also refer to 'watching and warding' as proper burdens upon the inhabitants of Royal Burghs, with powers exercised by Magistrates to regulate and impose local taxes for that purpose.<sup>45</sup>

After the defeat at Flodden in 1513, the Town Council appointed every fourth man to undertake 'watching and warding' duties every night. Since the personal service was restricted to burgesses who were either merchants or traders, personal attendance to such duties was undoubtedly inconvenient if not onerous. During the 16<sup>th</sup> century the city was divided into four quarters similar to the 'quartiers' in Paris - known as north-east, north-west, south-east and south-west, each under the charge of one of the Bailies. They were each assisted by a 'quartermaster' who was a paid official to enforce better government of the town.<sup>46</sup>

The APS 1600 c21 aimed to prevent combat between individuals and the APS 1600 c39 prescribed as unlawful, disturbances within one mile of the King's residence at the Palace of Holyroodhouse. Yet another APS 1606 c16 sought to prevent unlawful meetings and convocations without the permission of the Magistrates.<sup>47</sup> Relatively common street disorders in the city forced the Privy Council to pass an Order for their suppression, by the Magistrates of Edinburgh appointing 'some persons to guard their streets'. This Order

appears to have been ineffectual because on 19 February 1611, the Privy Council issued another Order to the Town Council in stronger terms. With a preamble referring to 'all kynd of excesse ryott and drunkkinness' occurring in the city 'after the ringing of the ten hours bell at nycht' the Order commanded:

The provest and bailleis of Edinburgh to appoynt some personis to gaird thair streittis, and to Tak apprehend and commit to waird all suche personis of quhatsomeuir rank and qualitie thay be whome thay find upoun thair streittis after the said ten houris bell.<sup>48</sup>

Dilatory response to this Order resulted in the Privy Council on 28 August 1611, serving Letters by messenger-at-arms on the Lord Provost and Bailies, charging them to elect constables.<sup>49</sup>

The Town Council continued consideration of this charge and on their meeting on 4 September 1611 agreed to elect constables - half from merchants and half from tradesmen, from each quarter to hold office for six months. Orders and Injunctions to be observed by constables were drafted by the Town Council and agreed at their next meeting on 6 September 1611 by the Privy Council. At the same meeting the Town Council divided each quarter into three sections and each section was assigned an officer and two constables. A district adjoining the north-eastern quarter along with the Cowgate were also assigned two constables each. A total of twelve officers and twenty-eight constables were duly elected.<sup>50</sup>

The Orders and Injunctions for Constables were printed on 13 September 1611 and contained the oath of office which charged them inter alia to 'faithfullie and trewlie discharge teir offices of constabularie within the bounds committed to their charge'. The duties and powers of constables were prescribed in sixteen Articles. These included powers to apprehend all suspected persons, idle vagabonds or night walkers; all persons wearing 'pistolets and daggers'; and all breakers of the peace. Constables could break open doors in pursuit of rioters and go beyond their bounds after them in fresh pursuit. On the last Saturday of every month constables had to present themselves before the Lord Provost and Bailies 'to give account of their diligence in respect of enforcement of enactments of the Town Council.'<sup>51</sup>

The establishment of City Constables did not supersede the ancient duties of 'watching and warding' incumbent upon city burgesses. Throughout the 15<sup>th</sup> and 16<sup>th</sup> century, paid 'night' and sometime 'day' watches were periodically maintained by the Town Council as an alternative to burgess duty.<sup>52</sup> Prior to the establishment of City Constables, in December 1606, the Town Council authorised Bailies to take up a nightly watch of twenty persons 'enduring the Councils will' - which lasted until 1625.<sup>53</sup> In that year, the practice of guarding the city by means of a hired watch at a cost of £4 scots per month per man, reverted to the ancient method of 'watching and warding' by burgesses.<sup>54</sup>

Despite the strong focus on apprehending offenders, the constables had wider powers relating to public safety and well-being. Item 12 in the Orders and Injunctions of 1611, added the duty of looking after the cleanliness of the city. Prohibition against allowing swine to run at large was amongst the oldest regulations contained in the *Leges quatorum Burgorum* of David 1.<sup>55</sup> Of course as Topham had described in 1776, the repeated Town Council orders for the removal of filth from the streets, had been made in vain. Lighting the streets was yet another ordinance to maintain, for in 1554, the frequent robberies and disorders committed in the streets by night are stated as the grounds for an Act of Council on the inhabitants to hang out lanterns or 'bowets' on the streets and closes between five and nine o'clock each evening.<sup>56</sup>

The Lord Provost and Bailies in their capacity as Justices of the Peace continued electing constables for six month duty up until October 1618, when they began to appoint them 'for the year to come'.<sup>57</sup> The history of the City Constables thereafter during the troubled years of the 17<sup>th</sup> and 18<sup>th</sup> century is well documented later by Sir James Marwick whilst he held the position of town clerk.<sup>58</sup> Although Marwick refers to five volumes of Society minutes covering the period 1707 to 1865, only two of these volumes are now extant. Nevertheless details are recorded of the annual appointments from 1707, of the Moderator, Treasurer, Clerk and Chaplain as office bearers of the Society.<sup>59</sup>

'Instructions for the Constables of the City of Edinburgh in the discharge of their public duties' were issued by the Lord Provost and Magistrates in 1750 and again in 1786.<sup>60</sup> The

Instructions issued in 1786 were more concise and contained in six clauses. In essence every constable was authorised to 'seize and apprehend' all persons suspected of any common law crime including breach of the peace and obstruction of a constable in the execution of his duty. Hot pursuit into other jurisdictions outwith the city to apprehend such offenders was permitted, and after displaying his 'baton of office' as a means of identification and authority, a constable could force entry into premises to effect an arrest. All persons so apprehended were committed to the City Guard 'until examined by the Magistrates'. Whilst undertaking these duties, the constable was empowered to call for assistance not only of other constables and City Guard, but any inhabitant. Constables were also directed to follow any instructions of the Lord Provost and Magistrates and could receive any unavoidable expenses as a result of receiving immediate orders. Apart from carrying the official baton of office, City Constables also had a badge of identification which they wore whenever assuming duty.<sup>61</sup>

Although for long the City Constables were appointed on a yearly basis, a system of triennial rotation, under which one third of the Society retired after three years service appears to have been gradually established. In the roll of the Society for 1763, a classification was introduced of those who had served one year, and the roll for the following and subsequent years distinguished those who were in their 1st, 2nd and 3rd year of office respectively.<sup>62</sup> The practice of remaining a constable for more than three years appears to have developed because a resolution recorded in April 1792 ordered that the three year tenure of office was 'fixed law'.<sup>63</sup>

Following the territorial extensions to the city, the total number of constables was increased to thirty-two in April 1789.<sup>64</sup> A further increase took place in June 1797 when the whole of the New Town as well as the Old Town was divided into forty districts each with a constable.<sup>65</sup> Apart from these general increases in establishment, other constables were appointed by the Lord Provost and Bailies for specific duties but were not admitted as Members of the Society. Thus in 1787 a Hugh Muir was appointed as a full-time constable for 'detecting' thieves and vagabonds.<sup>66</sup> In March 1797 a Peter McGregor was appointed as an additional full-time constable for the special purpose of 'clearing the streets of vagrants, sturdy Beggars and other disorderly people'.<sup>67</sup>

Despite the Society resolution in 1792 confirming triennial rotation of constables, the practice had lapsed considerably by the beginning of the 19<sup>th</sup> century. Of the forty constables on the Society roll in 1800, one had held office for 8 years; two for 5 years; one of 4 years; and sixteen for 3 years.<sup>68</sup> Due to the extensions to the city and increased duties, the Society of Constables in 1802 applied to the Lord Provost either to increase their number by not less than twenty persons or order '20 pay Constables' to be appointed under the direction of the Society. At their meeting on 1 December 1802, the Town Council approved the appointment of twenty extra constables and authorised Bailie Hill and the Society Moderator to settle new districts.<sup>69</sup> Accordingly, the Ancient and Extended Royalty of the City was divided into sixty districts on 1 June 1803 with a constable named for each district.<sup>70</sup>

## CITY GUARD

Although a regularly hired nightly watch had been introduced in 1606 under the control of the Bailies, this arrangement was separate from the system of City Constables established in 1611. In 1625, the Town Council dispensed with the hired night watch and reverted to the ancient practice of 'watching and warding' by burgesses. This arrangement was short-lived for in February 1626, an Act of Council referring to foreign wars and the possibility of invasion, established what Arnot regards as the origin of the 'trained bands' in the city.<sup>71</sup>

The 'trained bands' were established under the Lord Provost as Colonel and were a militia type corps. Initially they comprised eight companies each with two hundred citizens with arms, but in 1645 this was changed to sixteen companies each with one hundred citizens. By 1800 however, the 'trained bands' of Edinburgh had no functional role other than office bearers having a ceremonial presence in public processions.<sup>72</sup>

In addition to the 'trained bands', for the remainder of the 17<sup>th</sup> century, the Town Council periodically raised the quasi-military corps known as the Town Guard. A corps of sixty men included a captain, 2 lieutenants, 2 serjeants, 3 corporals and 52 privates with monthly pay



was established in 1648, but as no regular fund was provided to defray the expense, the system of 'watching and warding' again resumed. With the threat from the Privy Council to quarter the King's troops in the city in the absence of a military body, the Town Council raised another corps of forty men in 1679, and imposed an annual tax of burgesses for this purpose. Following the Revolution of 1688 however, the Town Council petitioned Parliament to have the Town Guard tax burden removed.<sup>73</sup>

Final recourse to 'watching and warding' by burgesses was short-lived for in 1689 the Town Council sought approval from Parliament to raise a new City Guard and to assess burgesses for discharging the expense. The City Guard established in 1690 thereafter until its reduction in 1805 comprised of three companies with the Lord Provost as Commander and an annual Watch Money tax for £15,000 scots (£1,250 sterling) was levied from those liable.<sup>74</sup> The 1st Bailie Committee had responsibility for auditing the reports of the stent masters and submitting accounts for the approval of the Town Council. Thus typically at their meeting on 8 August 1804, the Town Council approved estimates for the City Guard, as they did each year for the year commencing 1 August 1804, for:

- 3 lieutenants	£226-0-0
- 3 serjeants, 3 corporals, 3 drummers and 75 privates	739-0-0
- coals and candles	25-0-0
- surgeon expenses re medicine and attendance	20-0-0
- clothing for the soldiers	239-0-0
Total to be imposed	£1,250-0-0

and authorised by Act of Council the Moderator of the Society of Constables and stent masters to impose the said sum upon the inhabitants liable in payment.<sup>75</sup>

The Town Guard (sic) according to Chambers was 'a body of military in the service of the Magistrates for the purposes of a Police, but dressed and armed in all respect as soldiers'.<sup>76</sup> Sir Walter Scott described their uniform as 'an old fashioned cocked hat bound with white tape instead of silver lace; and a coat, waistcoat and breeches of a muddy coloured red' which remained unchanged throughout the City Guard's existence. The three Lieutenants, complimentary called Captains differed in having bright scarlet coats with gold wire epaulettes.<sup>77</sup>

Whilst the officers carried pistols and swords, the privates were equipped with muskets and bayonets whilst guarding public banks and other ceremonial occasions including Royal visits, public hangings, accompanying the Lord Provost to Leith races and opening of the General Assembly. On routine duties such as centinel posting, patrolling the streets or guarding the Tolbooth, the Guard carried lochaber axes or halberds. A Guardhouse built in stone in 1687 in the middle of the High Street near the Tron, was demolished in 1785. Thereafter until they were disbanded in 1817 the Town Guard was based within the Tolbooth building near St Giles in the High Street.<sup>78</sup>

During the early years of the 19<sup>th</sup> century, the three Captains of the City Guard were:

- Alexander Skae who replaced John Cunninghame who died sometime prior to 1800, as the officer commanding the 'First Squade';
- Francis Metcalf from 5 October 1803 who replaced George Gordon who died on 22 September 1803, as the officer commanding the 'Second Squade' ;and
- James Burnet from 30 May 1799 who replaced James Christie who died about that time, as the officer commanding the 'Third Squade'.<sup>79</sup>

Appointments as a Captain in the City Guard were made by the Town Council and could be conjoined with other duties. For example in October 1803, the Town Council appointed Francis Metcalf as Lieutenant of one of the companies following the death of George Gordon.<sup>80</sup> A year later in October 1804, the Town Council appointed Francis Metcalf to the vacant office of Overseer of the Flesh Market at a salary of £25 with power to see that the regulations for the markets were put into execution. Whilst Metcalf was allowed to supplement his £75 salary as Lieutenant, at the same meeting the Town Council refused a Petition from the serjeants and privates for additional pay.<sup>81</sup>

Despite the survival of a City Guard book containing 'Standing Orders for Officers and Men for the period 1773 to 1817', it is not possible to discern their specific duties or deployment.<sup>82</sup> An entry dated 12 January 1779 in respect of fourteen watch coats for the day and night centinel guards suggests seven centinel box posts being located throughout the Old Town at the historic points of entry into the Ancient Royalty. In January 1784, an additional centinel post was placed outside the Royal Infirmary; in September 1797 another

was added outside the Tolbooth door; and in November 1799 yet another was placed in Hunter Square in the middle of the Old Town with a specific instruction to Captain Burnet to ensure that 'the centinels walk both sides of North Bridge'. These sentinel posts were manned from eleven o'clock in the morning until ten o'clock at night, and from ten o'clock at night until daylight with an assembly at seven o'clock each morning for inspection of arms. The plan of rotation of sentinel duty between companies, if any, is not detailed.

Apart from the ten sentinel posts at strategic points throughout the Old Town, there was a permanent presence of City Guard at the Tolbooth jail in the High Street. A specific instruction from Lord Provost Fettes dated 16 October 1804 forbade 'spirituous liquors except small beer to be taken into the City Guardhouse for prisoners'. The remaining duties of the Guard other than ceremonial are also unclear. Until their reduction in 1805 they clearly had responsibility for taking custody of prisoners from constables throughout the city and escorting prisoners to court. There were street patrols of sorts organised in a group manner. An instruction dated 19 November 1799 reminded all that they had a duty to receive prisoners from the Canongate Police. A mobile patrol of the City Guard is also indirectly referred to by Chambers in his *Traditions of Edinburgh* who mentions that:

Every night did their drum beat through the Old Town at eight o'clock, as a kind of curfew. No other drum, it seems, was allowed to sound on the High Street between the Luckenbooths and Nether Bow. They also had an old practice of giving a *charivari* on the drum on the night of a marriage before the lodgings of the bridegroom; of course not without the expectation of something wherewithal to drink the health of the young couple.<sup>83</sup>

Some degree of discipline amongst the guards may have at one time prevailed, but the only punishment recorded on 12 August 1789, was a private dismissed for sleeping on duty and another dismissed for 'associating with disorderly women in an infamous house'.

Entries in the City Guard Standing Orders after 1800 almost exclusively pertain to instructions to parade for inspection, deployment for the King's Birthday celebrations in June each year and with the annual duties associated with the General Assembly of the Church of Scotland held in May each year. The City Guard obviously attended the Lord High Commissioner as the King's representative in Scotland and devised a system of

'paroles' or secret passwords to help maintain security each day of the Assembly. Although the 'paroles' - like King George, Queen Charlotte, Prince of Wales, Edinburgh, London, Dublin, Fettes, Fraser, Glasgow, York, Cork and Aberdeen seldom changed each year, the daily order recorded in Standing Orders varied over the years.

By 1800, the effectiveness of the City Guard confined to the Ancient Royalty was perceived to be increasingly inadequate. Creech in his *Fugitive Pieces* observed:

In 1783 - the City Guard consists of the same number of men as in 1763, although the City is triple the extent, and the manners more loose. The High Street is the only one that can be said to be guarded. The New town, and all the streets to the South, and suburbs, are totally unprotected.<sup>84</sup>

Cockburn writing much later about the early years of the 19<sup>th</sup> century recalled:

We had hitherto been so innocent or so poor, and so long accustomed to undetected or irregularly detected crime, that the City Guard, composed of discharged soldiers, and whose youngest member was at least threescore, was sufficient to keep us in what was then called order.<sup>85</sup>

Although his description of the City Guard is somewhat exaggerated even about the time of its subsequent demise in 1817, there was some truth regarding relative age of City Guards. Four books entitled 'Obligations of soldiers for the period 1773 to 1817' still extant invariably detail new recruits in the mid 40's age group, discharged from Highland Regiments appointed after the natural death of a serving Guard.<sup>86</sup> Although clearly insufficient in numbers, Chambers took the view that prior to 1805 the City Guard:

Was a somewhat more respectable body, not only as being larger, but invested with a really useful purpose. The unruly and the vicious stood in some awe of a troop of men bearing lethal weapons, and generally somewhat frank in the use of them.<sup>87</sup>

Whatever the viewpoint, the reality was that by the early 19<sup>th</sup> century, the days of the City Guard were numbered.

## ACT OF 1771 FOR THE SOUTHERN DISTRICTS

It has already been mentioned that apart from the planned New Town development, from about 1760 onwards city building expanded rapidly southwards from the Old Town beyond the suburbs of Easter and Wester Portsburgh. As the jurisdiction of the City Guards was confined to the Ancient Royalty, there was a need to gain Parliamentary authority for meeting the cost of extending the Police and other public services into the new 'middle class' areas. The Act 11 George III c36 was obtained by the Town Council for the purpose of cleaning, lighting, and watching the south side of the city which was divided into what was thereafter called the Eight Southern Districts.<sup>88</sup>

The 1771 Act appointed five named Commissioners for each District and included well known figures like Neil MacVicar, Manufacturer (later Lord Provost) for Bristo and Potterow District, and Henry Dundas, at that time Solicitor General for Scotland, for George Square District. The originally named Commissioners were required to have one statutory meeting each July at the local Chapel of Ease; make rate assessments (due at lammas and candlemas yearly) on households and businesses for the purpose of lighting, cleansing and watching; and arrange annual elections of qualified persons for the purpose of appointing forty new Commissioners. To assist implementation of the Act, the Commissioners could appoint a treasurer, collector and clerk for each District on a reasonable salary. Qualification for appointment and re-election as Commissioner as well as the franchise to vote required residence in the District and having a rental value of not less than £7 sterling. The annual assessment and rate levied was liable on houses, shops, warehouses, cellars, vaults or other tenements occupied at £3 sterling or more rent per annum, subject to sum not exceeding 6d sterling in the pound (i.e. 2.5%) of the real rent of such premise.<sup>89</sup>

Apart from appointing officials to administer the 1771 Act, Commissioners were empowered to dispose of street dung or 'fulzie' collected in each District by a lease not exceeding four years, and erect street lamps at a distance not further than sixty feet from each other. These lamps were lit only between 1 October and 1 April the following year at times determined by the Commissioners. Specific offences were created for breaking or damaging lamps (£2 fine per lamp) and wilfully riding, leading, or driving a horse, cattle or

carriage on foot pavements (5/- fine first, 10/- second and £1 third offence) and anyone could convey such an offender into the custody of a 'Peace Officer' in order to be secured before a Justice of the Peace. Importantly, the Commissioners for each District (or any three of them) were empowered to:

Annually appoint whatever number of able-bodied Watchmen they judged proper and also direct where the several Watchmen shall be stationed, and in what manner they shall be armed, and how often they shall go their rounds, how long they shall continue upon Duty, and what wages shall be allowed.<sup>90</sup>

Although the 1771 Act obliged the keeping of minute books, none are extant. The 1771 Act however with the election of Commissioners for Police purposes was the first of its kind in Scotland and provided a model for future development.

## **ACT OF 1772 FOR THE BURGH OF CANONGATE**

The Burgh of Canongate located on the Royal Mile between the castle in the Old Town and the Palace of Holyroodhouse, had its own Magistrates and Town Council when first erected. However when Edinburgh obtained the superiority via the 'Heriot' Legacy in 1636, the city appointed the Baron Bailie and two other Bailies as Magistrates to administer local government and criminal justice. Although the Canongate jurisdiction was covered by the City Constables, at night the Burgh was also without the permanent protection of the City Guard that was restricted to the Ancient Royalty. To remedy this and other deficiencies the Canongate Magistrates obtained the Act 12 Geo III c15 for Lighting, Cleansing and Watching the Burgh adjoining the Royalty of the City.<sup>91</sup>

In contrast with the franchise contained in the 1771 Act, the 1772 Act empowered the Magistrates and treasurer of the burgh along with the preses of the stent masters 'in all time coming' to appoint and direct clerks, scavengers, watchmen and other officers all with salaries or wages to execute the Act. Minuted meetings required three for a quorum and took place in the Canongate Courthouse. Unlike the 1771 Act, the 1772 Act authorised the stent master of Canongate to impose an additional assessment not exceeding 2 per centum in the pound of the real rents on those liable for existing land tax or cess, once the

product of  $\frac{3}{4}$ <sup>th</sup> part of the monies or tack duties were obtained from the sale of dung or fulzie.<sup>92</sup>

The 1772 Act was more an enabling Act for it did not include the election of Commissioners nor did it prescribe lighting and cleansing arrangements for the Canongate. However details of how the monies raised were discharged are contained in the Minutes of Canongate Magistrates for the period 1772 to 1811 which is still extant.<sup>93</sup> There was no hurry to introduce a nightwatch for much time was spent in the formative years arranging lighting and cleansing contracts. When the need for a nightwatch was accepted, it was for a period of six months only. In November 1776, a Committee was appointed to consider the required Watch establishment for the Canongate. Within a week the Committee recommended that the Burgh required:

- 4 watchmen;
- 3 sentry boxes, each 27' square and 6' high with half doors;
- 4 watch cloaks, each strong coarse cloth with blue cuffs and necks, with the Burgh coat of arms painted thereon;
- 4 lanterns;
- 4 watch hats with copper crowns, with white lace;
- stone of candles per week for six months; and
- pay at 4/6d per week for twenty-five weeks at a total annual cost of £39-16-0.<sup>94</sup>

There must have been resistance to the introduction of a night watch on at least financial grounds as the recommendations were forwarded to Henry Erskine, Advocate (later Lord Advocate in 1783 and 1806-7), Assessor to the Burgh, for his opinion. Only after his conclusion that it was highly proper to have watchmen did the Magistrates in December 1776 agree to put these recommendations into effect.<sup>95</sup>

In January 1777, the Canongate Magistrates placed orders for making the three sentry boxes and without advertisement appointed four persons as watchmen for the Canongate.<sup>96</sup> The regulations agreed for the watchmen included:

- duty between ten o'clock every night until five o'clock in the morning;
- sentry boxes stationed at Queensberry Lodgings, New Street and Canongate, rotating the three stations with the fourth station at the Canongate guardhouse;

- the guardhouse watchman appointed as a constable to have command;
- watchmen going their rounds each half hour, calling out the hour at the head of all closes; and
- watchmen taking up all riotous and disorderly persons, bad and strolling women and commit them to the Guardhouse until examined next morning by the Magistrate.<sup>97</sup>

The four watchmen appear to have served for six months only, for in September 1777 they were re-appointed for the 'coming season'. No reference is made to the watchmen again until a meeting in December 1778 mentions that the 'Establishment of Watching has for some time been discontinued' and finding that inhabitants were being very much molested and disturbed, the treasurer was authorised to appoint another four watchmen.<sup>98</sup> While there were regular meetings three times per year from 1771 until 1781, thereafter minuted meetings of the Magistrates are both irregular and scant. A meeting in November 1791 refers to the appointment of watchmen to their stations, but it can only be presumed that this was an annual six month arrangement which lasted into the 19<sup>th</sup> century.<sup>99</sup>

## TOWN OF LEITH

The town of Leith embracing the parishes of North and South Leith roughly divided by the Water of Leith had no uniform Police or system of police until the passing of a consolidating Leith Police Act in 1806.<sup>100</sup> North Leith which included Leith Harbour was under the superiority of Edinburgh and therefore had its own City Constables. Initially assigned two constables to the district adjoining the north - eastern quarter in 1611, there is no minuted increase in numbers until after the introduction of the 1806 Act. Although there are no records extant prior to 1771, South Leith was covered by four Town Officers and also a Society of Leith Constables who were also introduced in 1611 and functioned like the City Constables.<sup>101</sup>

An Act of 1771 specifically for obtaining a water supply and for cleansing and lighting the streets of South Leith was also the first Act to consider Police enforcement under the Leith Police Commissioners.<sup>102</sup> This Act for South Leith was similar to the Act of 1771 for the Southern Districts applying the same 2.5% assessment on properties exceeding £3 valued



rental. There were thirty named Commissioners appointed with provision for annual elections in December each year and minuted meetings were chaired by either the Baron Bailie or one of the other two Bailies in his absence. At their first meeting on 3 June 1771, letters of thanks were authorised to Sir Lawrence Dundas and three others for their efforts in procuring the Act, and Baron Bailie Cundell secured the assistance of six Commissioners to form a Committee for putting the Act into effect. The existing town clerk was also appointed clerk to the establishment.<sup>103</sup>

The majority of Leith Police Commissioners business for the remainder of the 18<sup>th</sup> century involved the procurement of adequate lighting and water supply for the town which was manifestly lacking. Commencing with a contract for fifteen lamps at the Shore at 14/- each in 1771, by 1784 the annual contract for servicing lighting during winter months referred to eighty-four lamps throughout the town.<sup>104</sup> The standing Committee on Lamps also had a supervisory role over contracts and in 1789 reported a case of fraud in detail. Whereas each lamp ought to have contained a 'gill and a half' of oil, inspection in December 1789, found only one contractor Richard Johnston in order. Of the other two contractors, George Marr was found a half gill short and Philip Granger a quarter gill short respectively in each lamp under their charge. Both were prosecuted but the outcome is not minuted.<sup>105</sup> Local contracts for cleansing and sale of dung were the norm with a Committee overseeing the employment of a foreman supervisor at 7/- weekly, six rakers at 5/- each weekly; and three men and horse carts at 18/- each weekly.<sup>106</sup> By March 1781, the town of Leith acquired a new fire engine from the London and Friendly Insurance Company in Edinburgh, on the same terms as one deployed in the city, with the Commissioners paying half the costs.<sup>107</sup>

Securing an adequate water supply for South Leith was a principle purpose of the 1771 Act and a business that the Commissioners took seriously. Accumulated surpluses on local assessments which only amounted to about £200 yearly initially enabled the introduction in 1783 of water supply from iron pipes throughout the town piped from a spring at nearby Lochend in the parish of Restalrig. By 1791, the Water Committee appointed a John Ross as a full time Police officer whose main duty was 'to superintend the water and public wells'.<sup>108</sup>

Although the 1771 Act had no provision for actually appointing new Police, the Leith Police Commissioners took an active interest in this subject. In March 1774, they appointed a James Shaw 'to prosecute such persons who transgress against the Laws of Police and to receive for his troubles one fourth of all the fines'. The Commissioners were clearly unimpressed with his lack of diligence for in January 1775 after dismissing Shaw, they appointed a John Muir to prosecute offenders.<sup>109</sup> A John Wright was the first appointed part-time Police officer in December 1771 but he was replaced by a John Kennedy in October 1773.<sup>110</sup> These persons also held the position of a Town Officer who attended the Leith Magistrates. Their Police duties were part-time at an annual salary of £3 plus court fees. By November 1784, the other three Town Officers were receiving similar payments for their Police related duties.<sup>111</sup>

The position of the four Town Officers as part-time Police officers in relation to John Ross the full-time Police officer appointed in 1791 is not entirely clear, however their roles continued into the 19<sup>th</sup> century.<sup>112</sup> Apart from the one full-time and four part-time Police officers, the minutes of Leith Police Commissioners suggest that they themselves took an active part in reporting offences for prosecution. Thus as well as forming themselves into standing Committees on Water, Cleansing and Lighting, the Commissioners from 1789 onwards formed themselves into territorial Committees of three for certain streets and tasked to 'remove from their respective bounds all nuisances, annoyances and encroachments' in terms of the 1771 Act.<sup>113</sup>

No serious attempt was made to reform the Police in South Leith until Baron Bailie Sibbald raised the subject at a meeting in September 1802.<sup>114</sup> Without any apparent brief from his Edinburgh superiors, he drew attention to the fact that for some time past, many people had been knocked down and robbed within Leith and that several vessels had been broken into while lying in the harbour. Bailie Sibbald then set forth a ten point plan for watching the town with a body of sixty men invested with the power of extraordinary constables, divided into three sets of twenty, each lead by one appointed Captain of the Watch. The first watch was to commence at nine o'clock in the evening when shops closed and remain on duty until one o'clock in the morning. The second watch was to take over at one o'clock and remain on duty until five o'clock in the morning. The remaining set of twenty watchmen

would be off duty every third night and rotate in turn with the other two sets of watchmen. It was envisaged that this system of watching should commence on 1 October yearly and operate over the six months winter period. Watchmen would be paid 1/- for each night of duty which was estimated at a cost of £365 for the six month tour of duty. Watchmen were to be given a watchbox, a baton, lantern and a rattle for summoning assistance. Persons arrested would be presented by the Captain of the Guard each working to the full-time Officer of Police.

The Commissioners present at the September 1802 meeting were unanimously of the opinion that something had to be done to protect persons and property but only agreed to forward copies of the plan to the Master of each Corporation in Leith for views. No replies are minuted from Leith Corporations but by their next meeting on 16 December 1802, procrastination caused events elsewhere to overtake the views of the Leith Commissioners on a new Police. Without reference to their own plan, Bailie James Scarth reported that he had received a letter from Sir William Forbes, Preses of a General Meeting of inhabitants of Edinburgh on 29 November 1802, enclosing certain resolutions for establishing a new and better Police for the city and conjoining the Leith Commissioners to support an Act of Parliament for this purpose.<sup>115</sup> The Leith Commissioners agreed that it would be beneficial for South Leith to be covered by a new Police and system of police and a Committee of five Commissioners was appointed to agree terms with the Edinburgh Committee.<sup>116</sup>

## PARISH CONSTABLES IN THE SHIRE

Justices of the Peace and Parish Constables were legal transplants which developed almost simultaneously in Scotland. Prior to the establishment of these offices, the Sheriffs in Scotland were serviced by an official in the shires known as the crowner. Outwith burghs, the crowner performed duties akin to the later constable, being responsible for the arrest of persons or their property, and to secure the compearance of offenders for trial before the Justice Ayres.<sup>117</sup> The ancient statutes of King Malcolm III outlined the duties of the crowner in respect of attendance on the Justiciary - and in this respect the crowner had responsibility for investigating the 'pleas of the crown'. The crowner was similar to the coroner in England and Wales and had a duty to attend any death in public or private

where 'felonie' was suspected, and after inspection of the 'dead bodie' was required to make inquisition of all suspicions.<sup>118</sup>

The APS of 1587 c57 was the first in Scotland to empower the Sovereign to appoint Justices of the Peace who 'being knawen of honest fame' were to be 'constant and continual uptakers of dittay'.<sup>119</sup> Baron Hume took the view that:

An establishment of this sort, which developed so troublesome a duty on private men, who had no experience of this kind of business, and were to receive no compensation for their trouble, was little suited to answer the intended objects of the furtherance of justice,

and found no evidence of such Commissioners taking root under this Act.<sup>120</sup> Apart from the special position which the Lord Provost and Bailies of Edinburgh enjoyed, Hume's observation on the APS of 1587 c57 is correct. In Edinburgh however, a Commission of James VI dated 6 June 1589 constituted the Bailies as Justices of the Peace.<sup>121</sup> Another APS of 1609 c14 also ordained that in every shire there should be Commissioners for keeping His Majesty's peace - but again it was by Letters Patent dated 10 November 1609 that James VI conferred on the Lord Provost and Bailies of Edinburgh only, the authority of Commissioners of the Peace.<sup>122</sup>

Despite the introduction of constables in Edinburgh and Leith from 1611, the APS of 1617 c8 was the first Scottish enactment which made reference to Parish Constables.<sup>123</sup> The second part of the 1617 Act declares that constables were to be chosen by the Justices of the Peace at their Quarter Sessions, with at least two constables in every parish. An exception was made for Royal Burghs where constables were to be chosen by the Magistrates and rotated every six months. The 1617 Act was ratified by the APS of 1633 c25 and again by the APS of 1649 c160 and finally renewed and amended by the APS of 1661 c38. Whilst another APS of 1649 c159 required JP's to pay constables out of fines recovered, an APS of 1655 gave constables the same powers as constables in England and Wales<sup>124</sup>

The APS of 1617 c8 contained fifteen clauses pertaining to the duties and responsibilities of constables. Although these clauses do not follow *mutatis mutandis* the items contained

in the Orders and Injunctions for the City Constables published in 1611, the range of duties and responsibilities for Parish Constables, including their oath to 'faithfullie and trewlie discharge' their office were remarkably more or less similar in content.<sup>125</sup>

Despite the requirement in law to appoint Parish Constables, there is no evidence to confirm that at least two constables were appointed every parish in Edinburghshire outwith Edinburgh and Leith. Surviving records commence in 1810 and do not provide an overview of Parish Constable appointments throughout the shire.<sup>126</sup> By the 18<sup>th</sup> century any constables appointed in the parishes were paid a small annual salary out of so-called 'rogue money' raised by the Commissioners of Supply under an Act of 1724.<sup>127</sup> Within the shire, the populous towns of Musselburgh and Dalkeith would most certainly have Parish Constables, possibly more than two, however in the *Statistical Account* of 1799, only the parish of Cranston makes reference having one Sheriff Officer and one 'Justice Peace' officer.<sup>128</sup>

By the beginning of the 19<sup>th</sup> century, the duties and responsibilities of constables in Scotland was trite law. Although several Acts of Parliament specifically referred to the role of constable, as in the:

- Prison (Escape) Act 1742;<sup>129</sup>
- Sale of Spirits Act, 1750;<sup>130</sup> and
- Militia (Scotland) Acts of 1802 and 1812;<sup>131</sup>

by far a greater number of enactments created statutory offences additional to the common law of Scotland which inevitably involved constables in apprehension, detection and reporting to Justices or indeed higher authority.<sup>132</sup> Within the vast arena of the criminal justice system already in place by the beginning of the 19<sup>th</sup> century, the legal constraints within which constables were expected to act - when they could or could not break open lockfast doors to arrest, and what constituted suspicion, was already beginning to emerge. Moreover whilst attending to such duties, a constable was expected 'on all occasions, to maintain the greatest sobriety and conduct himself with lenity, temper, and moderation, though at the same time with firmness and courage'.<sup>133</sup>

Apart from public duties in suppressing crime and maintaining the peace, constables were also tasked by JP's to undertake duties of a civil nature. Whilst the most common nature involved the seizure and sale of moveable goods under a warrant of distress or execution of poinding under the Small Debt Act, other duties included making up Jury and Militia lists and the serving of civil writs in litigations heard by JP's.<sup>134</sup>

## OTHER SYSTEMS OF SOCIAL CONTROL

Although the variously described Police and systems of police were the principal means of effecting crime detection at the beginning of the 19<sup>th</sup> century in Edinburgh and Edinburghshire, other systems of social control made important contributions to the maintenance of order. Whilst the most obvious of the period were the quasi-military home defence units organised under the auspices of the Lieutenancy, less formal societies by virtue of their function inevitably acted as extra 'eyes and ears' with the potential to be exploited as sources of information.

Whereas south of the border the Government relied on three types of home defence force - the fencible regiments, the volunteer corps and the militia regiments, in Scotland the threat of Jacobinism had prevented the introduction of militia before the outbreak of war with France in 1793.<sup>135</sup> The Scottish Lieutenancy was primarily created for the purpose of raising and directing local militia which was raised by a compulsory levy of men in the counties akin to a limited form of conscription.<sup>136</sup> A Royal Warrant in April 1794 established the Lieutenancy in Scotland, but given general unease about the measure, efforts were directed initially to the development of volunteer corps like the Royal Edinburgh Volunteer Brigade.<sup>137</sup>

The Scottish Lieutenancy was structured similarly to the English by appointing into office the greatest landowners in the counties.<sup>138</sup> Whilst in Edinburgh the Lord Provost held the office of Lord Lieutenant, in the shire the principal landowner was inevitably designated Lord Lieutenant as well as titular High Sheriff. The Lord Lieutenant controlled Vice-Lieutenants and Deputy-Lieutenants who were also landowners with lesser property requirements and who undertook most of the active work of the lieutenancy.<sup>139</sup>

When French naval activity increased sharply off the coast of Scotland in July 1797, the resultant panic provided Henry Dundas the opportunity to push the Scottish Militia bill through Parliament. The Militia (Scotland) Act 1797 sought a force of 6,000 men to serve for the duration of the war plus one month on a county quota basis. Parish schoolmasters and constables were responsible for making up lists of those liable to serve which included most men between nineteen and twenty-three inclusive except if they were married with two or more children or held certain vocations or postings in existing Forces. Those eventually balloted had to serve personally or provide a suitable unmarried substitute, or pay a £10 fine which would be used to hire a substitute.<sup>140</sup>

News of the new Militia Act fermented widespread unrest throughout central Scotland. When meetings were convened to implement the Act in August and September 1797, anti-militia riots occurred in several smaller towns surrounding Edinburghshire. Government troops took repressive measures the most serious of which occurred in the town of Tranent in Haddingtonshire, ten miles to the east of Edinburgh when twelve persons were killed by cavalry dispersing a hostile crowd.<sup>141</sup>

Extension of the age limits for militia service to between eighteen and forty-five years in the Militia (Scotland) Act 1802 inevitably created additional administrative work for schoolmasters and constables who were required to draw up lists of those liable in each parish.<sup>142</sup> As the war with France dragged on, the Local Militia (Scotland) Act 1812 was able to specify the number of privates required from each county.<sup>143</sup> Again under section 159 of that Act, constables had a duty to undertake enquiries and produce an annual return of those eligible for service. Whilst militia activity created the movement of men throughout and between shires and no doubt increased the opportunities to commit crime through anonymity of presence, the central task of drafting the militia list would provide constables with a means of procuring both criminal and political intelligence.

The extent of proactive intelligence gathering for whatever purpose during that period is obviously impossible to gauge. Nevertheless importance has to be attached to the extent to which constables could key into functional societies. Reference has already been made to regulations for sedan chairmen, for porters and for tronmen, chimney sweepers and

firemen, each group represented by a self-regulatory society whose members were required to be licensed. A licence afforded a point of access to a potential witness or informant to assist the investigation and detection of crime.

If the importance of sources of intelligence for the Police needs emphasis, reference need only be made to the system of 'caddies' in Edinburgh. The caddies employed themselves chiefly as street messengers and had a rallying point at the Mercat Cross located in the High Street beside St Giles Cathedral. Strangers coming to reside temporarily in Edinburgh got a caddy to accompany them from one part of the town to another and to run errands. Chambers remarked that:

The stranger would probably be astonished to find that, in a few hours, his caddy was acquainted with every particular regarding himself, where he was from, what was his purpose in Edinburgh, his family connections, and his own tastes and dispositions.<sup>144</sup>

Their true intelligence potential was recognised by Major Topham who in 1774 described the Edinburgh caddies as 'the tutelary guardians of the city; and it is entirely owing to them that there are fewer robberies and less housebreaking in Edinburgh than anywhere else.'<sup>145</sup> There was also a species of water-caddies who prior to the introduction of water pipes into houses, carried water from the public wells to the houses in common stairs at a fee of 1d per barrel.<sup>146</sup> Whilst the common stairs and wynds of the Old Town afforded some degree of anonymity for the furtive stranger, it would have been difficult to move into and through many parts of the city without coming to notice.

## **LAW AND ORDER PRIOR TO 1805**

Having considered the functioning of criminal justice throughout the shire including the contribution of the Police and existing systems of police along with other systems of social control, it is difficult to assess total effectiveness in terms of enforcing the law and maintaining order in early 19<sup>th</sup> century society. Such an assessment must be based on what little documentary evidence remains which is primarily the views and opinions expressed in official reports and contemporary newspapers and journals. At the same time, such a review should follow the analytical distinction made between the protection of



individual rights and the protection of collective rights mentioned in the Introduction. Protection of individual rights is very much about enforcement of the law through the criminal justice system, whereas the maintenance of public order calls for interventions that need not result in prosecution.

As regards the enforcement of law, annual returns of reported crime or prosecuted offenders at both local and national level in Scotland prior to 1805 are not extant and therefore it is impossible to indicate whether reported crime was in fact rising towards the end of the 18<sup>th</sup> century. Lack of statistical evidence however should not wholly undermine contemporary opinion, for despite the hidebound morality of the period, there would undoubtedly be some substance to views expressed.

At a national level, it certainly appears that the outcome of criminal justice in Scotland was more humane and equitable than its counterpart south of the border. Baron Hume in comparing both jurisdictions found:

On average for thirty years preceding the year 1797, the executions for all Scotland had not exceeded six in a year. For a period of fifteen years, preceding the 1st May, 1782, the number of person who suffered death at Edinburgh (where by far the greater number of capital trials took place) amounted only to twenty three, that is, in every two years only three persons suffered death.

Moreover whilst comparing inferior punishments, he found that 'one quarter-session from the single town of Manchester, have sent more felons to the plantations, than all the Scots Judges ordinarily do in twelve month'.<sup>147</sup> Of course transportation furth of Scotland did become more common during the first half of the 19<sup>th</sup> century, but it was always much less than the per capita average from England and Wales.<sup>148</sup> Such an outcome for criminal justice in Scotland raises a fundamental question about the distinctiveness of the 'civic humanist' tradition of the period and its effect upon Scottish society.

Nevertheless from the more local shire perspective, the *Statistical Account* provides a generalisation of the social evils experienced in the city in stark contrast with the

surrounding shire. The contribution of William Creech in 1792 in respect of Edinburgh observed that:

In 1763 - there were five or six brothels, or houses of bad fame, and a very few of the lowest and most ignorant order of females sulked about the streets at night. A person might have gone from the Castle to Holyrood-house (the then length of the City), at any hour in the night without being accosted by a single streetwalker. Street robbery, and pocket picking were unknown. In 1783 - the number of brothels had increased twenty fold, and the women of the town more than a hundred fold. Every quarter of the City and suburbs was infested with multitudes of females abandoned to vice, and a great many at a very early period of life, before passion could mislead, or reason teach them right from wrong. Street-robbers, pick-pockets and thieves, had much increased. In 1763 - housebreaking and robbery were extremely rare. Many people thought it unnecessary to lock their doors at night.. In 1783, 1784, 1785, 1786 and 1787 - housebreaking, theft and robbery, were astonishingly frequent; and many of these crimes were committed by boys, whose age prevented them from being objects of capital punishment. The culprits were uniformly apprehended in houses of bad fame, in which they were protected and encouraged in their depredations on the public.

Curiously, Creech made no direct mention of the more organised and notorious criminals who had come to notice in Edinburgh, like the case of Deacon William Brodie although he did produce an account of his trial. Apart from lack of detail, a key question is how much reliance can be placed on this account given the background and vested interest of Creech. He was a strong supporter of Henry Dundas and as a member of the Mirror Club he promulgated articles under the pseudonym 'Theophrastus' which deplored the corruption of values and manners in progressive society. On the other hand, recent research on the 'black book' for the city at that period, 'paints a picture of a disordered and dangerous element within urban society'. Despite the potential hyperbole, Creech obviously perceived the growth in crime and discerned the connection with vice, more clearly a problem of social order. Importantly, his account was not challenged by others at that time.<sup>149</sup>

In contrast with the city, the majority of returns for the *Statistical Account* for parishes in the remaining shire did not report crime or vice as being a particular problem. In the remote parish of Borthwick, nine miles south east of the city, it was reported that:

In every human society, certain irregularities must now and then take place, but here atrocious crimes are entirely unknown, and the people in general are orderly, peaceable, industrious and contented.<sup>150</sup>

Even in the parish of Corstorphine, three miles to the west of Edinburgh, it was reported that the inhabitants were:

Industrious in their occupations and though in the neighbourhood of the capital, they discover no foolish and vain desire to copy after its fashions, neither have they adopted its vices.<sup>151</sup>

The more populous town of Musselburgh in the parish of Inveresk acknowledged the economic benefits of supplying foodstuffs to large markets in the city. However in his more abstract submission Dr Carlyle conjectured that:

Large cities are the nurseries of crimes, as they furnish the means of privacy and concealment, as well as of temptation. But populous villages, if not favourable to some of the virtues, are at least discouraging to scandalous vices; because, in so close a neighbourhood, every action is perfectly known, and there is no censorial power half so effectual as the opinions of equals. Few great crimes have been attempted or brought to light in this parish.<sup>152</sup>

The stark contrast of findings between the city and remaining parishes of the shire can be compared to those of night and day, but there was a hint of the potential contamination through increasing mobility of citizens. Of the remaining shire, only the parish of Currie, adjacent to Corstorphine to the east of the city, reported adversely in 1792 that: 'till within these few years, the people of this parish were sober, industrious and economical. The vices of the capital, however, are beginning to spread fast amongst them'.<sup>153</sup>

Given that all the returns for the *Statistical Account* in respect of all the parishes in Edinburghshire outwith the city were submitted by the serving minister of the parish, the dearth of reference to crime and vice either represents a large conspiracy to hide the

problem or else draws the inference that such social problems were concentrated in the anonymity of the urban centre. Dr Carlyle was also a moralist with the same social values as Creech, but apart from the rhetoric, his account confirms that vice and crime was more a city phenomenon.

Another more obvious local perspective on the extent of crime can be drawn from the prison regime for the reception of custodial sentences or similar corrective confinement. The APS of 1661 which renewed the appointment of Justices of the Peace, also placed responsibility on them for the maintenance of 'gaols' and prison houses in the head Burgh of each shire.<sup>154</sup> At the beginning of the 19<sup>th</sup> century, the prisons still in use were the:

- old Tolbooth of Edinburgh, since 1640;
- Guardhouse within Canongate Tolbooth; and
- Tolbooth of Leith built in 1565;

which were under the supervision of respective Bailies who made monthly inspection visits.<sup>155</sup> Edinburgh had a Bridewell established in 1632, however an Act of Parliament obtained in 1791 raised £6,000 through assessment on the whole shire, which along with a £3,000 Government grant enabled the new Bridewell on Calton Hill to be opened in 1796. The new Bridewell with sixty-five apartments was under the supervision of appointed Commissioners.<sup>156</sup>

The old Tolbooth of Edinburgh, located in the High Street next to St Giles Cathedral was built in the 15<sup>th</sup> century as the Town Council civic centre, but had been used as a jail only from 1640.<sup>157</sup> It contained six rooms for male debtors, one room for female debtors and four rooms for criminals. An Act of Council in 1728 (which was updated in 1810) regulated the fees payable to the jailor and clerk who were obliged to keep detailed records. Whilst civil debtors kept in custody had fees paid by their sequestrator, the jailor and clerk were given an allowance of 4d per day from the Town Council for each criminal prisoner.<sup>158</sup>

Apart from the old Tolbooth, there was a place of confinement in Portsburgh, occasionally used by the resident Magistrate for detaining riotous and disorderly persons for a short time. The Guardhouse in the Canongate had apartments including an 'iron room' for the temporary confinement of delinquents and one prison section with five rooms for debtors.<sup>159</sup>

Again the Tolbooth of Leith was similarly a place of confinement for short term prisoners.<sup>160</sup> The only other places in the shire with facilities for temporary confinement prior to being moved to Edinburgh were at Musselburgh and Dalkeith.<sup>161</sup> The use of 'jougs' for the punishment and public display of criminals referred to in the *Statistical Accounts* for the parishes of Ratho and Currie, had fallen into desuetude.<sup>162</sup>

Whilst the old Tolbooth had a greater capacity for civil debtors than criminal prisoners, it held the most desperate prisoners who escaped capital sentence. By far the greatest number of petty offenders - the vagrant poor and street strollers were held in the Bridewell which was viewed as a House of Correction to rehabilitate corrupted morals. James Porteous described as a Lecturer and Chaplain in Edinburgh jail had his duty allowance increased from £15 to £25 per annum in 1804.<sup>163</sup> The Bridewell Commissioners who included the Sheriff Depute for the shire submitted annual accounts on a pro rata basis for prisoners confined on warrants throughout the shire. In February 1805 in accordance with annual practice, Edinburgh Town Council authorised the Chamberlain to pay £246-4-4 due for aliment and clothing for prisoners committed by the Bailies for the calendar year. This sum was equivalent to 14,773 days imprisonment for criminal prisoners, which is sufficient to allow sixty days custody for almost two hundred and fifty inmates.<sup>164</sup>

The most obvious medium for shaping public perception as to the extent of crime in early 19<sup>th</sup> century society was the press. Although some intellectual journals like the *Scots Magazine* regularly published accounts of High Court trials and articles concerning the Police and crime in general, others like the renowned *Edinburgh Review* made no reference at all to trials or Police issues in Scotland. The six regular newspapers and the *Edinburgh Gazetteer* published in the city featured regular but brief 'crime reports' as a subject heading. As the same account of the incident reported more often than not featured in several newspapers, details were obviously supplied by a common source like the Procurator Fiscal. Indeed the Procurator Fiscal occasionally placed 'advertisements' about serious crime, often offering 'rewards' for information on behalf of the Lord Provost or Sheriff Depute. Although newspapers were not dominated by 'crime reports' as they were during this period with military dispatches and intelligence reports on the war efforts in

Europe, the law and order coverage was regular and factual, and included accounts of 'atrocious' crimes committed through Britain and Ireland.

An article which appeared in the *Scots Magazine* in 1802 after a spate of robberies highlighted that:

The cause that is generally assigned for the evil is the disbanding of the military, and this throwing loose upon the world a great number of men unaccustomed to regular industry. They hang as a dead weight upon Society, *Nati Consumere Fruges*.<sup>165</sup>

Although no examples were given to support the contention, reference of course was being made to the practical outcome of the armed truce with France. In January 1800, Bonaparte had made overtures for peace and negotiations for a naval armistice commenced in August that year. By October 1801 preliminary articles in the Treaty of Peace between Britain and France had been agreed and these were made public when the Treaty was ratified by both countries in March 1802.<sup>166</sup> Demobilisation albeit limited and gradual would visibly impact throughout the Kingdom with a new breed of transient vagrant and wealthy urban centres like Edinburgh would be worth a visit. At the same time, demobilisation presented a general threat to public order, and it is this threat to collective rights which must also be considered.

The French revolutionary period and the publication of the *Rights Of Man* by Tom Paine in 1791 had sown seeds of republicanism, which affected many major cities and Edinburgh as the metropolis of Scotland was no exception. The anti-militia riots which occurred during 1797 in several smaller towns surrounding Edinburgh presented a rebellious challenge to the State. In his account of the general conditions in 1800 when he entered the Faculty of Advocates, Cockburn remarked that although there were few proper Jacobins who sought to introduce a republican constitution, many were called by this nickname because they admired French liberation and favoured municipal reform. Against this background, there were both politically and economically determined public protests which were serious enough to cause concern and prompt a repressive response by local and central Government. In the context of the Kingdom however, recent research has shown that the extent and levels of popular protest in Scotland in the late 18<sup>th</sup> century are less than those found in England.<sup>167</sup>

The most prominent political threat to the Edinburgh establishment caused by the French Revolution was the King's Birthday riot of June 1792. Although the Lord Provost and Magistrates were aware of the flood of pro-democracy handbills preceding the birthday celebrations on Monday 4 June and had placed Police and military patrols on alert, they had been surprised by the size of the crowds which ran into thousands. As the Edinburgh elite drank the King's health inside Parliament House by eleven o'clock that night the mob on the outside after the usual fireworks display, tore down a sentry box in the High Street and carried it off to Netherbow where it was burned. The Sheriff Depute was stoned after reading the Riot Act and it took Dragoons called from the Castle to clear the streets of people. Two further nights of sporadic rioting culminating in an attack on the home of Lord Advocate Robert Dundas required the military to fire upon the crowd. Taken so unawares and with a similar but smaller disturbances in 1796, for many years afterwards the full deployment of Police and available military during the period of the King's birthday celebrations was a matter taken very seriously by the Town Council.<sup>168</sup>

The greater political threat to the State came from sympathetic organisations known as the Friends of the People and the United Scotsmen. The first Society of the Friends of the People in Scotland started meetings in Edinburgh in July 1792. When a Scottish Convention of delegates from all the societies in Scotland met in December 1792 in Edinburgh ostensibly to petition Parliament constitutionally for reform, Government took steps to suppress the movement after an address was delivered by Thomas Muir on behalf of the Society of United Irishmen. The subsequent series of sedition trials which commenced in January 1793 has been well researched and needs no repeating. Although the continued activities of the United Scotsmen over 1797-98 occurred elsewhere in Scotland, several State trials were held in Edinburgh. The account of State trials and official correspondence to the Home Secretary revealed the ability of the Lord Provost as Lord Lieutenant to employ the services of a spy to secure vital information.<sup>169</sup>

Although the French Revolution had less direct influence on the political uncertainty at the beginning of the 19<sup>th</sup> century due to the threat of invasion, the economic problems of the period of cause more direct threats to public order. Meal prices rose dramatically in 1800

and this sparked food riots in Edinburgh. Between 29 April and 1 May 1800 sporadic riots in Edinburgh and Leith were directed at meal sellers and at granaries, and required the intervention of volunteer corps and parties of regular soldiers. The scarcity of meal prompted the Town Council to promote the Edinburgh Poor bill which eventually raised £10,000 by additional stent assessment. Basic food supply throughout 1801 was based under the control of trustees with the residue of funds at the end of the year allocated to the Edinburgh Charity Workhouse.<sup>170</sup> This local emergency intervention appears to have been the last in Edinburgh under the mercantile economic system, for by the beginning of the 19<sup>th</sup> century the free market doctrine of Adam Smith had more dominance.

An important point to note from the most serious outbreaks of public disorder outlined, was the inability of the existing Police and systems of police to prevent, contain or peacefully disperse unruly crowds. At the beginning of the 19<sup>th</sup> century, military or quasi-military intervention with arms was still occasionally called upon to quell public riots. However having contained the perceived revolutionary threat during the 1790's, it is difficult to argue that the principle pressure for a new Police resulted from the need to more effectively manage serious outbreaks of public disorder. On the contrary, a more subtle and new threat to public tranquillity in the form of increased vagrancy was beginning to emerge and this required a much stronger instrument of social control. Whilst there were signs of economic and social divisions as early as the 1750's and 1760's, these had intensified and become more transparent and ossified by ongoing building developments in the New Town and Southern Districts which altered the spatial arrangements in the city.



## Chapter Three - THE NEW POLICE AND SYSTEMS OF POLICE 1805 TO 1812

### BACKGROUND

Despite the presence of a relatively large number of poor people and the absence of a regular Police and system of police, contemporary observers agreed that until the last two or three decades of the 18th Century, Edinburgh was without much violent crime.<sup>1</sup> During the 1790's agitation for political reform had been crushed in Scotland, but by 1800 economic and social factors were beginning to stir the relative tranquillity enjoyed by Edinburgh. The pressure of an increasing population was accommodated by extensions to the city, but these extensions began to shift the homologous nature of her citizens. Only the new wealthy middle classes could move to the New Town and the new Southern Districts, leaving the poorer classes to inhabit the decaying Old Town. The influx of country and immigrant poor into the Old Town was thus facilitated and in the absence of demand for extra labour, the overcrowded and squalid conditions were perpetuated. Again, the armed truce ratified in 1802 probably added to the visible increase in vagrancy and a consequential rise in petty crime from which the more affluent middle class residents of the New Town and the Southern Districts could not escape.

The resultant impetus for reform came from the social classes most affected. In April 1802, a letter from the Reverend George Baird, on behalf of the Edinburgh Society for Bettering the Conditions and Increasing Comforts of the Poor, was considered by the Town Council. The Society had already established a small but influential Management Committee to introduce 'some measures for permanently and completely suppressing in the city and suburbs the nuisance of street begging'. They proposed that a Town Council Committee conjoin in this cause and were confident enough to suggest a date for both Committees to meet in the house of Lord Advocate Hope at St Andrews Square. Although the Town Council approved the proposals and directed the Magistrates to attend, the subsequent deliberations of these Committees are not recorded. The City Guard and the City Constables were obviously ineffective in preventing street begging which was perceived as a nuisance to inhabitants.<sup>2</sup>

This attempt to tackle street begging was given added impetus by the initiative of the banker Sir William Forbes, who was then Master of the Merchant Company. In December 1802, a personal letter from Forbes to Lord Provost MacVicar, enclosing a copy of the resolutions of 'a very respectable body of inhabitants' who considered it necessary to procure a Police bill for the city, was considered by the Town Council.<sup>3</sup> Forbes was Vice President of the Edinburgh Society for the Poor and McVicar was himself a director on the Management Committee. Although Forbes represented the Edinburgh Merchant Company, the proposed Police bill was not formally considered by them until February 1805.<sup>4</sup> The signatories to the resolution for a new system of police included Lord Advocate Hope, and Sheriff Depute Clerk as well as twenty five other prominent persons from the legal, banking and merchant professions. Sir William Forbes was a well known and respected figure in Edinburgh and therefore he was likely to be the persuasive voice in a composite middle class group which sought to influence the Town Council.<sup>5</sup> Thus in December 1802 the Town Council resolved that Lord Provost MacVicar, 1st and 2nd Bailies, Dean of Guild, previous Provost Sir William Fettes, previous Dean of Guild, Convenor and one of the Town clerks constitute a Committee to meet and consider the resolutions for a Police bill.

Progress was initially encouraging because by March 1803 Lord Provost MacVicar presented to the Town Council a draft petition for the House of Commons seeking a general system of police in the city. In March 1803, the *Scots Magazine* outlined the new system which co-ordinated lighting, cleansing and watching over a large area of Edinburgh in much the same manner as the 1771 Act for the Southern Districts and indicated that the new Police bill would be submitted during the current Session of Parliament. However the bill was temporarily resisted for unknown reasons by residents in the Southern Districts and totally rejected for stated reasons by South Leith. The incorporated trades in the city were also consulted in the process and in the absence of public resolutions to the contrary, it can only be presumed that they supported the need of a new Police bill. After protracted scrutiny, the final petition declaring the objects of the bill, was not read to the Town Council until February 1804. Having approved the petition,

the full Council resolved that it be passed to the Council Solicitors, Messrs Spottiswood and Robertson, WS for legal assistance in drafting the more substantial Police bill. Although there are no further references in the Town Council minutes for almost a year thereafter, it is known that substantial changes were made to the Police bill after a meeting between interested parties in May 1804 chaired by Sir William Forbes. This meeting was attended by a 'Mr Colquhoun' who gave advice about establishing a new Police as well as a system of police. The meeting is only minuted by the Leith Police Commissioners and is considered in detail later.<sup>6</sup>

Uninterrupted by the election of a new Town Council in September 1804, a revised petition and Police bill were produced by Lord Provost Sir William Fettes at a Town Council meeting in January 1805. The revised Police bill not only contained the originally proposed system of police but also proposed a new Police headed by a Superintendent. Although approved, only the bill was forwarded to the House of Commons because the petition itself was not signed by the Lord Provost until 20 February 1805. A letter from Sir William Forbes, dated 11 February 1805 was read at the Town Council meeting two days later, and referring to the bill in Parliament, it intimated that Messrs Spottiswood and Robertson WS required a £300 advance in order to progress.<sup>7</sup>

On the same day as the petition was signed, William Ramsay, by then Master of the Merchant Company, summoned members. Sir William Forbes and Lord Provost Fettes were among the seventy seven members who attended the meeting and discussed the Police bill on 26 February 1805. Whilst the general tenor of the bill was unanimously approved, the merchants appointed a Committee to seek further explanation from the Town Council on two points. The first concerned the arrangements in clause 41 for reduction of the existing debt of the City Guard. In pursuit of this matter, in March 1805 the Merchants Committee met with a Trades Committee and satisfactory agreement was reached. The second concerned the provisions in clause 22 for punishment of the begging poor which they thought were 'conceived with rather too great severity,' but any response to this concern was not reported back by the Merchant Committee.<sup>8</sup>

Evidence of further resistance to the Police bill is scarce and only alluded to at a meeting of the Town Council in February 1805. Lord Provost Fettes referred to a meeting with the 'gentlemen of the Leith Committee' at which they submitted that the proposed Police bill did not sufficiently answer all the purposes, nor supply all the wants of the town of Leith. Moreover the Leith Committee, referring to a promise made to them in May 1803 by the Edinburgh Committee, sought a separate Act of Parliament that would grant further powers over water supply and cover both North and South Leith. Edinburgh Town Council accepted this view, but referring to the ancient rights over the Port and parts of Leith, they resolved 'to oppose by every constitutional means any separate Police bill which may attempt to take away any part of their jurisdiction.'<sup>9</sup>

### **THE 1805 ACT FOR REGULATING THE POLICE OF THE CITY OF EDINBURGH**

Almost three years after the idea was first mooted, the long awaited Act for regulating the Police of the City of Edinburgh received Royal Assent on 10 April 1805. Although promoted as a private bill, as was common with such legislation, the Act was deemed public. Repeating the petition, the objects declared in the preamble, aimed:

To provide for a more steady and regular Administration of internal Government and Police and to establish more effectual Regulations for apprehending and punishing Vagrants and disorderly Persons, Suppression of Common Begging, removing Nuisances, lighting and cleaning the Streets and Passages, and, in general, for the preservation of peace and good order within the said City and places adjoining.<sup>10</sup>

Although the 1805 Act used the term Police in its traditional 18th century sense, its bureaucratic organisation represented a fundamental change of policy and practice. For its execution, the Act vested authority in a partnership of General and Residential Commissioners and for supervisory purposes, it created the ranks of Superintendant and Inspectors of police. A quasi-military presence was to remain in the form of a very much reduced City Guard, but a comprehensive system of police was to be enforced by a combination of constables, new 'officers of police' and the traditional watchmen.

For the first time the 1805 Act extended a regular Police and integrated system of police to a single jurisdiction over the whole city. It was in part a consolidation measure , for existing watching in the Southern Districts and Burgh of Canongate were also placed under the management of the new Police. The territorial jurisdiction covered the Ancient and Extended Royalty, Burgh of Canongate, Barony of Calton, Precincts of the Abbey of Holyroodhouse, Easter and Wester Roads to Leith (now Easter Road and Bonnington Road respectively), Eight Southern Districts and the neighbourhood villages of Canonmills, Water of Leith, Restalrig, Jock's Lodge and Portobello.<sup>11</sup> For administrative as well as Police purposes, the territorial area covered by the 1805 Act was divided in six Wards.

Much of the 1805 Act concerned the establishment of a legal framework for the new Police and new system of police which aimed to increase the general safety and well-being of the inhabitants. A range of statutory measures reveal the perceived problems of the period and nuisances that had to be eradicated in order to improve the quality of life in the city. Backed by legal sanctions, the measures can be grouped into two categories; those concerned more with physical safety and orientated towards the prevention of crime on the one hand, and those concerned more with the well-being of the inhabitants on the other. All in all the measures can be regarded as the examples of what has, been termed 'welfare offences', but now a new Police was created to ensure more effective detection and prosecution in the public interest.

As regards the first category, the provision of adequate street lighting was a high priority in terms of crime prevention. The Acts 11 and 12 George III (1771 & 1772) had already introduced lighting, cleansing and watching in the eight Southern Districts and in the Burgh of the Canongate and the Act 25 George III (1785) had improved street lighting in the Ancient and Extended Royalities. These duties were under the charge of local Commissioners appointed annually. Although the 1805 Act suspended the operation of these statutes in regard to watching duties, it expressly continued the duties of lighting and cleansing by the local Commissioners in the areas mentioned.<sup>12</sup> Provision was made to extend lighting and cleansing to those parts of the city not covered by these previous

statutes, but this responsibility was placed on the Residential Commissioners in each Ward, who had power to raise a specific assessment not exceeding 2★% of free rent.<sup>13</sup> It remained an offence to 'wilfully take away, break, or throw down any Lamp' set up within the limits of the 1805 Act or to 'wilfully extinguish the light or lights within the same, or damage the lamp posts, irons, or appurtenances thereof'. Each offence was subject to a fine not exceeding £2.<sup>14</sup>

On the same theme of preventing crime, the initiative was taken to remove certain havens of criminality. Recognising that many shops and houses in some streets in the city were situated in:

Piazzas behind Pillars, whereby the said shops and houses are not only rendered dark and incommodious, but the said Piazzas are filled with nuisances, and, in the evenings and at night are receptacles for idle and disorderly persons

authority was given to the Dean of Guild to grant permission to proprietors to extend their premises to the frontage of their pillars.<sup>15</sup>

As regards the second category of measures for the well-being of the inhabitants, these were wide and varied. The General Commissioners were empowered to promote any regulations deemed necessary for the preservation of peace and good order, 'in so far as such regulations, orders, rules, and bye-laws maybe consistent with the tenor of the (1805) Act, and the laws of Scotland,' subject to a maximum fine of £1 for each contravention.<sup>16</sup> Thus the 1805 Act provided a more declaratory statutory foundation to the power of the Bailies in the city and the Sheriff Depute for the shire to make regulations in respect to the licensing of hackney coaches, sedan chairs, carts and waggons, regulations as to the weighing of coals brought into the city, regulations as to the weight of straw and hay sold in the city; and regulations as to the weight of bread baked in the city.<sup>17</sup>

A measure of the resolve of the Town Council to establish the new Police, can be drawn from the proposed ten year continuance of the Act.<sup>18</sup> Although this time-scale also

facilitated payments to extinguish the debt of the City Guard, the Act also granted power to levy additional rate assessments for the purposes of lighting, cleansing and watching. The 1805 Act with seventy seven sections was a comprehensive and innovative piece of local legislation which established a new Police and administrative machine as well as a functional system of police to tackle the prevailing social problems of the period. The constituent aspects of the 1805 Act merit closer examination in order to appreciate the complexity of the new bureaucratic organisation and hierarchical command structure put in place.

## COMMISSIONERS OF POLICE

Prior to the development of representative democracy and multi-functional local authorities, the appointment of Commissioners for specific purposes was the standard constitutional device. Commissioners had been appointed annually in Edinburgh under the 1771 Act to take charge of lighting, cleansing and watching beyond the Ancient and Extended Royalties. Under the 1805 Act a hitherto unknown two-tier system of General and Residential Commissioners was devised to enshrine local participation in the decision-making process. Whereas the unelected General Commissioners and elected Residential Commissioners were responsible for bringing the Act into execution and making the major policy decisions, the Residential Commissioners alone were responsible for overseeing the implementation of that policy. Significantly, there is no evidence of any debate in official minutes or indeed newspaper or journal articles, on the need or reason for General and Residential Commissioners. Thus it can only be assumed that there was a consensus between the Tory Town Council and the 'respectable body of inhabitants', that in return for new rate assessment powers, the interest of the ratepayers ought to be represented by elected Residential Commissioners.

A wide range of persons by virtue of their office were declared General Commissioners under the 1805 Act.<sup>19</sup> The Town Council was represented by the Lord Provost, four Bailies, Dean of Guild, Treasurer and the Deacon Convenor of the Trades in the city. Other General Commissioners included the Principal of the University of Edinburgh, the

President of the Royal College of Physicians, the Master of the Merchant Company, the Bailie of the Abbey of Holyroodhouse and not least, two Justices of the Peace, who were heritors of the parish of St Cuthberts, named by the other JP's in the shire. Moreover the interests of the judiciary was served by the appointment of the Lord President, the Lord Justice Clerk, the Lord Chief Baron of the Court of Exchequer, Sheriff Depute, Lord Advocate, Solicitor General, Dean of the Faculty of Advocates, Keeper of HM Signet, Senior Clerk of Session, and the Preses of the Society of Solicitors before the Supreme Courts in Scotland. The presence of the Lord Advocate alone would have been sufficient to ensure the interest of Government in the new Police and system of police, but the Members of Parliament for the city and shire were also General Commissioners of Police. Finally along with this impressive group of the most important political, legal, academic and commercial offices of the period, the seven Residential Commissioners elected for each Ward were deemed General Commissioners only for the purpose of putting the Act into execution.

Being a creation of statute the duties and powers of the General Commissioners were defined in the 1805 Act.<sup>20</sup> They had specific authority to impose the rate assessment required under the Act, choose a 'Superintendent or Master of Police' and to fix the numbers and description of officers of police, watchmen and others to be employed.<sup>21</sup> Along with their wide authority to procure regulations for the specific purposes already mentioned, the creation of sixty-nine General Commissioners including forty-two residential Commissioners, represented a fundamentally different if not unwieldy approach to managing the new Police and system of police in the city.

The Residential Commissioners were altogether a new legal innovation and seven persons were named and established in each of the six Wards in the city.<sup>22</sup> Of the forty-two Residential Commissioners designated, twenty three were merchants, sixteen had a legal and two had a military background, and one was a church minister. Some eminent persons became Residential Commissioners including Sir William Forbes in Ward 2. Qualification for election to the post the Residential Commissioner required a residence valued £20 or upward of free rent within the Ward, except in Wards 4 and 6 where the



eligibility value was set at £12 or upwards of free rent. Such a high property qualification ensured that only the 'respectable' middle classes could stand for election as a Residential Commissioner.

Although individually named in the 1805 Act, provision was made for the annual election of the two Residential Commissioners named highest on the list for each Ward. Elections supervised by a quorum of three Residential Commissioners in each Ward, were scheduled for April 1806 and each year thereafter and the mode of election, akin to a system of proportional representation, was prescribed.<sup>23</sup> The franchise was extended to those occupiers of dwelling houses, shops and warehouses valued at £10 or upwards of free rent, except in Wards 4 and 6 where the value was set at £6 or upwards of free rent; and plural voting was expressly forbidden.<sup>24</sup> Unlike the Acts of 11 and 12 George III which introduced lighting, cleansing and watching in the Eight Southern Districts and in the Burgh of Canongate, based on assessments of real rent of premises, the 1805 Act introduced rate assessment on what was termed free rent. Applying only to premises exceeding a real rent of £3 sterling per annum (unless selling spirituous liquors), free rent was deemed to be four-fifths of the real rent, on the understanding that the remaining one-fifth was an allowance for repairs and other necessary expenditure.<sup>25</sup>

Certain safeguards were provided to ensure the functioning of the Residential Commissioners. Should the inhabitants of a Ward fail to elect two Residential Commissioners annually, or fail to replace a Residential Commissioner who had died, or who had become incapable of acting, the Residential Commissioners in office could vote themselves a replacement. It was possible for Residential Commissioners to be re-elected annually, but in the event of refusing to act after being duly elected, the penalty was a fine equal to triple the personal rate assessment.<sup>26</sup>

The powers and duties of Residential Commissioners were also prescribed in the 1805 Act. Residential Commissioners were deemed to be General Commissioners only for the purpose of bringing the 1805 Act into execution, conjoining elected with non-elected representation. Within the Wards however, the Residential Commissioners were

empowered to give such directions as was necessary for implementing the orders of the General Commissioners and were in general responsible for promoting the peace, order and comfort of the Ward. They had specific authority to employ a full time Inspector of Police and a clerk in their Ward and to employ constables, officers of police, watchmen, and others in such numbers as determined and authorised by the General Commissioners. The appointments and when necessary the suspension of officers by the Residential Commissioners within their respective Wards, was nonetheless subject to ratification by the General Commissioners. Most importantly Residential Commissioners were required to submit written reports to the General Commissioners on the state of their Ward, and this was used as a channel of communication to air local grievances.<sup>27</sup>

The 1805 Act regulated the meetings of both General and Residential Commissioners.<sup>28</sup> The General Commissioners met for the first time on Monday 29 April 1805 and every fortnight thereafter until the new Police and system of police was fully established. They held five such fortnightly meetings before the investiture ceremony of the Superintendent of Police on 15 July 1805. Whereas General Commissioners had statutory meetings prescribed for November each year and the following May, the Residential Commissioners had statutory meetings a fortnight beforehand to prepare their reports. Nonetheless, General and Residential Commissioners could hold meetings at any time if deemed necessary. Meetings of the General Commissioners were usually held in Parliament House, Edinburgh, unless the High Court of Justice were sitting. The Residential Commissioners met within the respective Wards, and although not recorded their meeting place was probably the watchhouse in each Ward. No expenses could be defrayed for any meeting of the General or Residential Commissioners.<sup>29</sup>

The minutes suggest that the General and Residential Commissioners undertook their responsibilities seriously for only on three occasions in forty meetings between 1805 and 1812 did they fail to achieve a quorum of twenty one in attendance.<sup>30</sup> At the first meeting which was attended by fourteen General Commissioners and thirty three Residential Commissioners, the decision was taken to appoint a General Committee.<sup>31</sup> The General Committee, which was re-appointed yearly, was to consider the important aspects of

policy and any major problems, and to report its findings and recommendations prior to the next meeting of General Commissioners. Although having a quorum of five, the General Committee often appointed ad-hoc subcommittees with a quorum of three, to resolve matters that required more detailed consideration. In addition, a standing sub-committee was appointed yearly to examine the accounts of the assessments imposed and rates collected under the 1805 Act.<sup>32</sup>

## **SUPERINTENDANT OF POLICE AND THE POLICE COURT**

The title 'Superintendent of Police' was used for the first time in the 1805 Act. Although the title 'Master of Police' could have been adopted, Superintendent (sic) was deemed more appropriate for the new head of Police and eventually became a rank adopted throughout Britain. It should be noted that the title had civil rather than military origins, as suggested by Charles Reith, for Edinburgh already had a Superintendent for Public Works and for Water Supply on substantial salaries prior to the 1805 Act. The new Superintendent was prescribed both judicial and command functions as head of the new Police. Once appointed by the General Commissioners, the Superintendent was authorised to receive the commissions of Sheriff Substitute in the County of Edinburgh and Sheriff Depute in the City of Edinburgh, to be granted by the Sheriff Depute and the Lord Provost respectively.<sup>33</sup>

By virtue of these commissions, the Superintendent became Judge in the Police Court with a territorial jurisdiction extending to the boundaries of the 1805 Act. Thus the Superintendent as Judge, had legal powers similar to the four Bailies when exercising jurisdiction within the city, and legal powers of Sheriff Substitute when exercising jurisdiction outwith the city but within the limits of the 1805 Act. As a Judge of both jurisdictions, the Superintendent could issue warrants of apprehension or for summons against persons committing offences against the 1805 Act, for the purpose of bringing such persons before him for examination and trial. As regards the command and control over subordinates, the 1805 Act declared that the Superintendent had 'the immediate charge and superintendancy over the whole City and Bounds aforesaid in all matters and

things connected with the Police'.<sup>34</sup> Specifically he was to communicate the directions and orders of the Commissioners to the several Inspectors and officers in the Wards. There was a proviso in case of absence from indisposition or other cause, that his place could be taken by one of the four Bailies of the city, attending and acting as a Police Magistrate or indeed the Sheriff Depute.

The first Superintendant of Police was John Tait WS who had been the secretary to the Edinburgh Committee to consider the state of the Police. This decision was taken in June 1805 and there appears no evidence of lobbying on his behalf. John Tait had been admitted as a member of the Society of Writers to the Signet in November 1781 and was aged 57 years at the time of his appointment as Superintendant of Police.<sup>35</sup> Tait was the obvious choice for the post, for he had the requisite legal background and detailed knowledge of the 1805 Act.<sup>36</sup> Upon his own suggestion, Tait received £50 for his previous business of attending to the 1805 Act and was provided with a £500 annual salary payable half-yearly, to commence on 15 July 1805.<sup>37</sup>

The establishment of the Police Court in which the Superintendant of Police presided was another major break from the past. An initial enquiry to obtain a house owned by the Bank of Scotland at the bottom of Lady Stairs Close, as a suitable Police Court did not progress. However the Dean of Guild obtained an initial four year lease of suitable property at Riddells Close in the Lawnmarket at £25 per annum and later secured a six year lease at £35 per annum for the same property, commencing Whitsunday 1809.<sup>38</sup>

The framers of the 1805 Act thought it highly expedient that any Court proceedings should be attended with as little expense or delay as possible and so a summary form of procedure without written pleadings was introduced. The summary Form of Procedure was detailed in an Appendix to the 1805 Act which without written pleadings had two distinct advantages over the existing practice. Firstly it provided speedier and a cheaper form of justice to a greater number of citizens. Complaints against offenders were still required to be in writing on a printed form, but after hearing oral evidence the judgement need only be engrossed upon the complaint and subscribed by the Superintendant of

Police as Judge. Secondly, it provided greater certainty of prosecution for the offences created under the 1805 Act. In a period when private prosecutions by aggrieved individuals with the concurrence of the Procurator Fiscal was still the norm:

Every public outrage, every theft, robbery, or depredation, every obstruction or nuisance, or breach of cleanliness, and every imposition or overcharge in articles under the cognisance of the Act, were deemed public offences to be prosecuted in the public interest by officers of the new Police.<sup>39</sup>

The Superintendent of Police as Judge in the new Police Court was vested with substantial powers of summary punishment. For most offences under the 1805 Act he could impose a maximum of sixty days imprisonment either in the Tolbooth or the Bridewell which prescribed the kind of labour to be employed. Moreover convicted persons could alternatively or in addition be fined any sum not exceeding 40/- and damages for any sum not exceeding £3 along with the expenses of the case. The existing Burgh Court in which the Bailies presided continued to function but was restricted to civil cases. The criminal workload of the Sheriff Depute may have been reduced, but there was scope for referral of more serious offences there. Indeed if the Superintendent of Police as Judge in the Police Court thought a case deserved a higher punishment than that prescribed, he could commit the offender into custody until liberated in due course of law and remit the case to the agent for the Crown and to the Procurator Fiscal of the city or county.<sup>40</sup>

Undoubtedly the most controversial section in the 1805 Act concerned the apprehension and punishment of vagrants and common beggars. As already mentioned, when the draft Police bill was considered before the Edinburgh Merchant Company in February 1805 a majority of members present thought that the section to punish the begging poor, was 'conceived with rather too great severity'. The Merchant Committee was directed to raise this issue with the Town Council Committee, but the subsequent deliberations are not recorded. Indeed the Merchants' minutes are later devoted to the other point at issue, that of the financial arrangements concerning the reduction of the City Guard. The resultant

provision directed Inspectors, constables, officers of police, watchmen and others, to apprehend and bring before the Superintendant, all vagrants and common beggars for examination. If it was established that the person so apprehended belonged to the city then the person was to be sent to the Charity Workhouse of the place to which they belong; and if they belonged to the parishes of South Leith or Duddingston in which there were no workhouses, they were to be delivered to the Session Clerk of their parish. If on examination the person so apprehended belonged to parishes outwith the limits of the 1805 Act, then the person was to be conveyed to the boundaries of the Ward adjacent to such parishes, and there dismissed. But if on examination the person so apprehended did not appear connected with any particular parish, then they were to be detained in custody in the Bridewell for a period not exceeding sixty days. The severity fell upon re-offenders who did not appear connected with any particular parish or otherwise had already been committed to the Bridewell. If the person was apprehended on a second occasion they were committed to the Bridewell and 'upon the first Wednesday after the expiry of ten days from such conviction' they were to be whipped with the number of lashes prescribed by the Court, not exceeding fifteen, before being dismissed. If such a person was apprehended on a third occasion they were again committed to the Bridewell for a similar period of time before being:

Whipped through the streets of the City by the hands of the common hangman, receiving such number of lashes as shall be prescribed in the sentence of conviction, not exceeding twenty.

Such a penal provision provides further evidence of the hardening of attitudes towards vagrancy beyond that identified by Mitchison and Houston.<sup>41</sup>

Finally, the Superintendant of Police was assigned other miscellaneous duties under the 1805 Act, which were not directly concerned with the system of policing. He was, for example, deemed Principal Billet Master in respect to quartering military within the city.<sup>42</sup> Although this must have been an onerous task given the prolonged state of hostilities with France, it would enable the new Police to hold information about the distribution of billeted houses on the city. For reasons probably more connected with law enforcement, the Superintendant of Police was given the power 'to order and direct the names of Streets,

Squares, Places, Lanes or Passages within the Wards to be properly marked, and the Houses, Buildings Shops and Warehouses to be properly numbered'.<sup>43</sup> Wilful damage to such markings and numbers was made an offence punishable by a fine of not less than 10/- nor more than 40/-. For reasons of public welfare, he could serve notice upon those persons so bound by law or contract, to maintain roads in a proper state of repair, but subsequent refusal to act in pursuance of such notice was not prescribed an offence in the 1805 Act.<sup>44</sup>

## THE INSPECTORS OF POLICE

The 1805 Act established the first full-time paid civilian Police in Edinburgh, comprising a hierarchy of Inspectors, officers, constables, watchmen and others. Although the command structure was subordinate to that of the Superintendant of Police, all had equal powers, inasmuch as it was declared that while on duty, they possessed 'the powers given by the law of Scotland to the office of Constable'.<sup>45</sup> Whereas the General Commissioners determined the number of subordinate officers to be employed, and their conditions of employment, it was the Residential Commissioners who were responsible for all appointments within each Ward. None of the posts appear to have been advertised.

Provision was made for the appointment of one Inspector in each Ward, who had a general duty 'to distribute over the Ward committed to his charge, the Officers of Police, Watchmen, and others, allowed by the General Commissioners, according to the Directions of the Residential Commissioners'.<sup>46</sup> Having the powers of the office of constable, the Inspector was expected to 'assist in suppressing disorderly Houses, Mobs and Riots, in extinguishing Fires, and preventing Danger of every kind to the Lives and Properties of the Inhabitants.' More specifically the Inspector had a duty to make a daily report to the Superintendant of all offences against the 1805 Act coming to notice within the Ward. Inspectors also had other ad-hoc roles under the 1805 Act. They were Billet Masters within their respective Wards, responsible for enforcing the decisions of the Superintendant as final arbiter. They also had a duty to report from time to time to the

Superintendent upon 'the state of the Streets, roads and other communications' in their Wards.<sup>47</sup> The Inspectors appointed under the 1805 Act are detailed in Figure 3A.<sup>48</sup>

**Figure 3A - Inspectors Under The 1805 Act**

Ward	Inspector (Previous Occupation)	Salary Per Annum
1	Francis Metcalf (Captain in City Guard)	£90
2	Walter Hart Stevenson (Bookseller)	£70
3	Thomas Baird (Merchant)	£70
4	Peter Prall (Grocer) & Robert Aitken (Painter)	£70
5	James Graham (unknown)	£70
6	John Brooks (Baker)	£70

NOTE: Robert Alexander, Captain in the City Guard was originally appointed Inspector for Ward 5 on the 10 June 1805 but he resigned on 20 June 1805 and his vacancy was filled on 8 July by James Graham.

The appointments of Inspector made by the Residential Commissioners, were accepted by the General Commissioners without regard to age or any other special qualification. Moreover, the appointments and when necessary their suspension or discharge, did not cause much great controversy. As a result of major review of manpower in 1807, only Inspectors Metcalf, Stevenson and Brooks continued in office until 1812. For some reason, Inspector Brooks of Ward 6 was suspended from duty by the Superintendent, this action being approved by the General Commissioners at a meeting in November 1805.<sup>49</sup> Although the reason for suspension of Brooks is not detailed, the General Commissioners approved the lifting of his suspension some time later. In February 1807, a Robert Aitken, painter in the Canongate, was appointed the Inspector of Ward 4, after the incumbent Peter Prall had died.<sup>50</sup> In March 1808, the General Commissioners approved and later confirmed the suspension of James Graham, who at that time was Inspector for combined Wards 1 and 4, although no reason is detailed, it may well have been as a result of the planned cost savings.<sup>51</sup>

It was originally envisaged that each Ward would have a watchhouse for the temporary detention of prisoners before their appearance at the Police Court, but lack of suitable accommodation resulted in compromise at an early stage.<sup>52</sup> After considering the reports



of Inspectors in June 1805, the General Commissioners agreed that the City Guardhouse in the High Street would be used also at the watchhouse for Wards 1, 4 and 6. Two rooms within the Assembly rooms in George Street were provided rent-free as the watchhouse for Wards 2 and 3 and a house in Teviot Row was obtained rent-free for two years as the watchhouse for Ward 5. Enquiries continued to find suitable accommodation for watchhouses especially for Wards 4 and 6 but difficulty was obviously experienced. By October 1806 however premises were rented at £2 per annum at Portobello as the watchhouse for Ward 4.<sup>53</sup>

The Inspectors were based at their respective watchhouses where they were responsible for examining the reason for detention of prisoners. Having established the grounds of a *prima facie* case, the Inspector in his role as Prosecutor Fiscal was also responsible for presenting the evidence before the Superintendant as Judge in the Police Court. After the commencement of the 1805 Act, the reports of Residential Commissioners in Wards 3, 4, and 6 recommended that each Inspector should have a separate office in the Ward which could be shared by the Commissioners for Lighting and Cleansing, but this did not come to fruition.<sup>54</sup>

In his administrative role the Inspector was obliged to maintain three of the four books issued to each Ward under the 1805 Act. The onerous nature of these tasks is revealed in a report by the Superintendant on the 'Ward Books' which was submitted in September 1806 to the General Commissioners. A Minute Book had been issued to Residential Commissioners for the purpose of recording reports to and orders from the General Commissioners and over the preceding year this had been regularly kept by the clerks in the Wards, except Ward 4 which did not produce one. A 'Book of Accounts' had been kept by Inspectors but not in a uniform manner and the General Commissioners agreed with the Superintendant that these books ought to contain the names of serjeants and watchmen as well as their incidental expenses. A 'Book for Daily Reports by Inspectors and for the Orders from the Superintendant' along with a 'Book for the Watchhouse' had been issued to the Inspectors, but the Superintendant found that the practice of each Inspector had been to merge the information into one book. The Superintendant

submitted that these books had to be kept separate for the 'Book for the Watchhouse' ought only to contain the names of prisoners kept there, but the General Commissioners did not support this recommendation. The General Commissioners however agreed with a recommendation of the Superintendant that a Roll should be kept in each Ward detailing the names and residences of the Inspector, serjeants, constables and watchmen.<sup>55</sup>

Finally, the Inspectors had two other administrative tasks which are worthy of separate consideration because of the potential of public surveillance. Firstly they were required to make up 'Lists of Inhabitants entitled to vote for Commissioners within the Ward, to be delivered to the Residential Commissioners at least six days before the annual election in the month of April.'<sup>56</sup> This provision allowed the Inspectors to make enquiries with householders within the Ward and thereby gain more knowledge about the community under his charge. Secondly the 1805 Act authorised the 'Superintendant to direct the Inspectors of Wards, or other persons to be appointed by him, to make enumerations of the Inhabitants from time to time, and as often as he shall think expedient, by requiring signed lists of the persons therein', and all innkeepers and masters of hotels, public houses, lodging houses, and other houses of entertainment, were directed to comply under the penalty of a fine not exceeding 10/- for every refusal or erroneous statement.<sup>57</sup> Such provisions provided a powerful method of intelligence gathering and represented a major departure from the old passive style of policing towards a new reactive and even proactive style of policing.

Apart from the administrative role, the Inspector had a supervisory function over his subordinates within the Ward. They had twenty-four hour responsibility and worked broken and flexible shifts to meet the supervisory demands of the Ward in addition to presenting cases before the Police Court. By November 1805 the Superintendant reported to the General Commissioners that a Book of Orders had been issued to the Inspectors, along with the books that were required to be kept in each Ward, but these Orders are not extant. Nonetheless the supervisory function can be implied from two particular sources. Firstly the Inspectors were expected to work night-duty when the occasion demanded. Having no distinguishing uniform, the General Commissioners in

November 1805, allowed Inspectors 'great coats for night service at the expense of the Establishment'.<sup>58</sup> The main purpose of working night shift was to supervise the patrols in the city, of which more will be mentioned later. Secondly, when the subordinates under his control misbehaved or neglected their duty, the Inspector was required to report the circumstances to the Superintendent. So when a report from the Residential Commissioners about the conduct of 'Day Watchmen and the Day Patrol' was read before a meeting of the general Commissioners in November 1811, the General Commissioners directed the Inspectors 'to do their duty and see that the Watchmen and patrol do theirs and report their conduct to the Superintendent'.<sup>59</sup>

In addition to the 'Book of Orders' issued by the Superintendent to the Inspectors, a 'Set of Instructions' were eventually issued by the Superintendent to all his subordinates. At their meeting in November 1805, the General Commissioners approved the recommendation from all the Wards, that the Superintendent before the winter, ought to make out a set of instructions for the Inspectors and others employed under the 1805 Act, and that a committee be appointed to revise these instructions. For some unexplained reason there appears to have been great delay by the Superintendent in issuing the 'Set of Instruction' requested.<sup>60</sup> A report from the Residential Commissioners in Ward 2 renewed the call for instructions for regulating the duties of Inspectors, serjeants, constables and watchmen in December 1806. The General Commissioners, ordered that the instructions be 'immediately made' and that the required Committee for revision be appointed. The appointed ad-hoc Committee reported on the 'Set of Instructions' at the meeting of the General Commissioners in January 1807, and they authorised them to be printed and be publicly available. Unfortunately no copies of these instructions are extant nor were details published in newspapers.

## THE CONSTABLES, OFFICERS OF POLICE AND WATCHMEN

As already mentioned, the 1805 Act refers to 'Constables, Officers of Police, Watchmen and others' as being vested with the authority of the office of Constable in Scotland. The only explanation for distinguishing the subordinate ranks was that their roles were slightly

different. The constables were based at the Police Court and were under the direct control of the Superintendant whereas the 'Officers of Police and Watchmen' were based in their respective Wards under the direct control of the Inspector. 'Officers of Police' was the title given to the serjeants, to distinguish them from the watchmen under their supervision. The 'others' were an innominate group which covered persons temporarily employed for special occasions.<sup>61</sup>

The 1805 Act permitted the Superintendant with the concurrence of the General Commissioners, to appoint up to eight persons to be constables to attend the Police Court.<sup>62</sup> The main function of the constables was to execute the warrants or sentences of the Police Court and the same section permitted the constables if the occasion required, to be armed and mounted on horseback. At the meeting of the General Commissioners in July 1805, the Superintendant reported that seven persons were being appointed as constables, and named George Williamson (previously a messenger) as Head Constable at a salary of £50 per annum. It soon became the practice for the Head Constable to act as a detective, undertaking protracted enquiries outwith the city.<sup>63</sup> In fact the 1805 Act made no mention of such a distinction of role, and the title was obviously a vestige from the old Police. No particular qualifications or age restriction is mentioned in respect to the constables appointed. Apart from their Police Court duties, constables were expected to execute the provisions of the 1805 Act and, they were issued with a distinctive jacketed uniform. Moreover being based at, and regularly concerned with, the affairs of the Police Court, the constables mostly worked daytime hours. They petitioned for and were also issued in January 1810 with the heavier watchcoats issued to watchmen, due to inclement winter weather.<sup>64</sup> There is no instance recorded of any constable being suspended from duty by the Superintendant, which was a much more common occurrence with the watchmen.

Although 'Officer of Police' was a new functional term applied to the rank of serjeant, the title 'watchman' obviously derived from the old nightwatch system. The serjeants had a supervisory role and freedom of movement within their Ward. Indeed the 1805 Act provided that it would be lawful to have 'one Officer of Police in every Ward properly

armed and mounted on horseback for the more ready and effectual communication of intelligence and execution of orders and other purposes' under the Act. The watchmen on the other hand worked night duty only and patrolled the streets on beats from static watchboxes within the Ward. This system of beat patrol which enabled the watchman to pass a place four or five times during the course of the night, was fundamentally different from the system adopted in Glasgow where the watchmen had fixed stations, but could summon assistance of others by ringing a bell. Whilst the 1805 Act allowed the General Commissioners to determine the number of serjeants and watchmen in each Ward and their qualifications, the Residential Commissioners made the actual appointments. Their distribution over the Ward was left to the Inspectors but this was subject to the approval of the Superintendant. Even after a review in 1807, the beat patrol system was retained in the city.<sup>65</sup>

From the outset, the General Committee was tasked to determine the number of persons required to be appointed as officers of police and watchmen, as well as their wages. Slight delay was caused when Sir William Forbes on behalf of his own and other public banks, intimated that they were 'desirous to be protected under the Police Act and willing to pay for men appropriated for their service'. Some debate took place as to whether the new Police should be armed as soldiers, but the outcome of the deliberations was that they would be unarmed except for their batons of office.<sup>66</sup>

At their meeting on 10 June 1805 the General Commissioners accepted the manpower proposals of the General Committee, subject to a minor qualification. Ward 1 was allowed one serjeant and eight watchmen and the rest of the Wards were allowed one serjeant and four watchmen each. It was acknowledged at this stage that further watchmen would be necessary in regard to protection of the public banks which were situated within the bounds of Ward 1, but their numbers were not subsequently disclosed. By the time of their next meeting on 8 July 1805, the General Commissioners authorised the Residential Commissioners to appoint an additional serjeant in each Ward along with four extra watchmen for Ward 1 and two extra watchmen in for Wards 2 to 6. Moreover Ward 2 was allowed another watchman for the Water of Leith, Ward 3 was allowed another watchman

for Canonmills, and Ward 4 was allowed two other watchmen, one for the Restalrig and Jocks Lodge area and one for the Portobello district.<sup>67</sup>

Once the new Police was established there was almost an immediate demand for extra men. By November 1805 the Residential Commissioners sought five additional watchmen for each Ward, but after the request was considered by the General Committee, they recommended that seven additional watchmen be appointed in each Ward with two in each Ward to work a day shift to supplement the constables.<sup>68</sup> Thereafter there were few changes to the establishment. Apart from a reduction of Inspectors in 1807, in December 1805 an extra serjeant was appointed in Wards 2 and 3 specifically to oversee the cleaning of places where dung was unset, and in January 1807 permission was given to employ three part-time watchmen in lieu of the authorised watchman for the Portobello area.<sup>69</sup> The establishment of serjeants and watchmen appointed under the 1805 Act is shown in Figure 3B.

**Figure 3B - Establishment of Serjeants and Watchmen (1805-1812)**

Ward	Number of Serjeants	Number of Watchmen
1	2	19 (see note)
2	3	14
3	3	14
4	2	15
5	2	13
6	2	13
<b>TOTALS</b>	<b>14</b>	<b>88</b>

NOTE: There was in addition a number of Watchmen in Ward 1 who guarded the public banks.

Although age was not considered in the appointment of Inspectors, it was held a relevant factor in the appointments of serjeants and watchmen. The General Committee recommended that no person above the age of fifty years be appointed a serjeant or watchman, but the General Commissioners reduced this upper limit to forty five years. This may have been too strict a condition because compromise was reached for the further appointments of a serjeant and watchmen in each Ward referred to in July 1805

which stipulated that they should not exceed the age of forty eight years. By November 1805 when seven extra watchmen were recruited in each Ward the maximum age limits were fifty years in the case of a serjeant and forty five years in the case of a watchman provided that they were 'stout and healthy'.<sup>70</sup>

From the outset it was envisaged that the new Police would have distinct uniforms which would make their presence obvious on the streets. Before his appointment, Superintendant Tait had been instructed to make enquiry about the uniforms used by the Police in Glasgow. At a meeting of the General Commissioners on 27 May 1805, Tait reported that he had obtained a sample of the Police uniform from Robert Nimmo, Clerk of Police in Glasgow and the style was adopted.<sup>71</sup> The basic uniform comprised of a blue coloured jacket with a red collar, a vest with yellow coloured buttons, and corduroy breeches issued yearly at a cost of £3-6-0d for the set. A hat (7/-), shirts (13/6d), stockings (3/6d) and shoes (7/6d) were also provided on a yearly basis. In addition a watchcoat costing £1-6-7d was issued every second year. A peculiar feature of the watchcoat was that a breastplate with the watchman's number engraved was affixed at a cost of 10/-. The watchcoat was also blue in colour with a red collar matching the cap. Again on the advice of Robert Nimmo, the General Commissioners adopted 'oil lamps properly trimmed' as being preferable to candle lamps. The practice of the General Commissioners was to place the requirement for uniforms and oil for tender each year.<sup>72</sup>

Whereas the Superintendant and Inspectors were paid annual salaries, the serjeants, constables and watchmen received weekly wages. The serjeants received 12/- per week and the watchmen 9/- per week, which compared favourably with the average agricultural and craft wages at the time. With the exception of the Head Constable the constables attached to the Police Court were allowed a basic wage of 8/- per week plus their fees for executing warrants summons and other orders of the Police Court. These fees were determined at 4d per case in the Form of Procedure in the appendix to the 1805 Act but constables could only increase their wage in this manner to a maximum of 12/- per week.<sup>73</sup> In addition to these wages, the 1805 Act following the existing common law of a 'moiety' in private prosecution, allowed one half of all the fines collected in the Police

Court to be distributed amongst constables, serjeants and watchmen 'according to their activity and exertions, in such manner as the Superintendant shall direct'.<sup>74</sup> This provision accepted as custom in private prosecutions caused controversy on a matter of principle and ended in 1807. The Inspectors were responsible for weekly disbursements of wages but there is no detail on the financial rewards distributed to the beneficiaries.

Whether the wages were sufficient to attract the proper character of person into the new Police is debatable, for if suspensions and discharge are taken as the standard yardstick, many other factors must also be taken into account. Suspensions in the lower ranks were for 'neglect of duty' in most cases. Figure 3C gives an indication as to the scale of the suspensions and although a more meaningful perspective would require the number of resignations from the service over the same period for other reasons, these figures are not available.

**Figure 3C - Suspensions Between 1805 and 1812**

Date	Name (Office)	Ward	Minute Book (1805-1812) Reference
Nov 1805	John Brooks (Inspector)	6	p64
	Mr Sutherland (watchman)	Unknown	
Feb 1806	John Thomson (watchman)	3	pp76&77
	Alexander Robertson (watchman)	3	
May 1806	George Wilson (serjeant)	1	p81
	Charles Drummond (watchman)	2	
Jan 1807	Hugh Mckenzie (watchman)	1	p105
Nov 1807	James Murray (watchman)	Unknown	p127
	John Dick (watchman)	Unknown	
	William Beaton (watchman)	Unknown	
Mar 1808	James Graham (Inspector)	1&4	pp133&135
Nov 1808	George Wilson (watchman)	1&4	p139

Note: The first suspension was that of John Brooks, Inspector for Ward 6, but he was obviously reinstated because he was Inspector for Wards in 1812.



## THE REDUCED CITY GUARD

The 1805 Act allowed for continuation of the historic City Guard but limited their numbers from three to one company comprising one lieutenant, two serjeants, two corporals, two drummers and thirty men from Whitsunday 1805 onwards.<sup>75</sup> The Lord Provost continued to be the Company Captain. The cost of clothing and arming the men whose pay was not to exceed that of an infantryman in His Majesty's Forces, was to be defrayed from the general fund raised under the 1805 Act. Reduction of the City Guard does not appear to have been problematic. Many were of retirement age and those who were younger and physically fitter were accommodated the new Police. Indeed at their second meeting on 13 May 1805 the General Commissioners accepted the appointment of Francis Metcalf, Captain in the City Guard, a serjeant and fourteen 'able privates' to the new Police. Metcalf of course subsequently became the Inspector for Ward 1.<sup>76</sup>

The continuation of the City Guard after 1805 was not due to the necessity for a military presence in Edinburgh for there was an abundance of military in the form of regulars, volunteer corps and militia; but rather it may have been prudent to have some retention until existing debt was discharged. It was only when the members of the Edinburgh Merchant Company were summoned to a meeting in February 1805 to consider the general tenor of the Police bill, that details of the existing debt for the City Guard emerged. Having 'unanimously approved the system of police proposed' the merchants assembled nevertheless appointed a Committee of four of their number to obtain from the Town Council an explanation of what was then clause 41 in respect of reimbursement of debt to the Town Council. In March 1805 the Merchant Committee met with a Trades Committee and both had detailed discussions with the Lord Provost and Magistrates before mutual agreement was reached.<sup>77</sup>

The APS of 1690 which had established the City Guard, placed a 'burden upon all the inhabitants within the burgh whither admitted Burgesses or not, exercising Traffic, or having charge within the same' (i.e. traders) who were subjected to a sum not exceeding

£15,000 scots yearly thereafter, but which freed them from the obligation of 'watching and warding'. It was admitted that for many years the amount of money actually recovered under the assessment of 'watchmoney' had not exceeded £9,600 scots, and to make up the deficiency the practice developed of taking sums of money recovered under the assessment of 'trade stent'. The debt owed to the Town Council as creditors had increased significantly since 1796 and at the date of the meeting in March 1805 amounted to (with interest) the equivalent of £6,296-14-9d sterling. It was estimated that by making payments of £699-12-9d sterling per annum over nine years commencing Whitsunday 1806, the Trades would extinguish their debt at a cost of approximately half of what they currently paid by way of 'watchmoney' and 'trade stent'. This financial arrangement was agreed and incorporated within the 1805 Act and was probably the main reason why the Act had a proposed ten year tenure.<sup>78</sup>

Whilst on 1 May 1805, the three companies of the City Guard paraded for the last occasion in Parliament Close for the purpose of selecting those to join the new Police, the actual reduction of the City Guard took place on 15 May 1805 two months before the introduction of the 1805 Act.<sup>79</sup> After being directed by the General Commissioners to take interim charge of the defence of the city, 1st Bailie Coulter reported that he had set up regular patrols for the reduced City Guard into three divisions. Two of the patrols commenced at ten o'clock each night and were repeated every two hours until five o'clock in the morning. One of these divisions was led by Metcalf who became the Inspector for Ward 1 the following month. His patrol started at the Guardhouse in the High Street and moved south in South Bridge to Cross Causeway and thereafter westwards to Bristo Street before encircling northwards via Candlemaker Row, West Bow and Lawnmarket back to the Guardhouse.<sup>80</sup>

The other ten o'clock patrol, undertaken by MacMaster's division, also started at the Guardhouse and patrolled down the Mound, westwards to Charlotte Street and then eastwards in George Street to St Andrews Square before returning to the Guardhouse via York Place and North Bridge. At the same time selected City Constables accompanied the City Guard on these patrols because there was a direction in the 'Orders for Patrol' for the

'constables to have batons and the rest good oak sticks' The third division was led by a Corporal who was directed to commence at eleven o'clock at night, and along with seven privates to patrol with 'axes' from the Guardhouse, down the High Street as far as Canongate Church and return to the Guardhouse. The instruction was also given that all culprits under the charge of the City Guard were to be carried before the sitting Magistrate or Sheriff.

The retained members of the City Guard continued with the same rates of pay and conditions which were somewhat different from those subsequently contracted for constables, officers of police and watchmen. The serjeants received  $1/6\frac{3}{4}$ d per day, while the corporals received  $1/2\frac{1}{4}$ d per day. The drummers received  $1/1\frac{3}{4}$ d per day while the privates alone obtained the basic 1/- per day plus an allowance of  $1\frac{1}{2}$ d per day each for 'beer money.' Disbursement of wages to the City Guard were made on a weekly basis by the lieutenant who was responsible for maintaining an account.<sup>81</sup> Nevertheless the shedding of two lieutenants, one serjeant, one corporal, one drummer and thirty five privates was a significant reduction which marked the transition to reliance on the new Police in the city.

## ADMINISTRATION OF THE 1805 ACT

Although the General and Resident Commissioners were ultimately responsible for bringing into execution, and maintaining the new Police and system of police, they were assisted by other officials whose enumeration was also met from assessments collected under the 1805 Act. These officials comprised a Principal Clerk, Ward clerks, surveyors, a General Collector and also sub-collectors, ranging from a full to part time basis and constituted a significant part of the bureaucracy which was an essential feature of the new Police.

Ward clerks assisted in the financial and general administrative responsibilities of both the Residential Commissioners and Inspectors. The Ward clerks initially appointed in June

1805 are shown in Figure 3D and it can be concluded from the fees paid that their tasks were undertaken on a part-time basis.<sup>82</sup>

**Figure 3D - Ward Clerks Under The 1805 Act**

Ward	Clerk (Designation)	Annual Fee
1	Richard MacLean Merchant	£15
2	Charles Cunningham WS	£15
3	James Anderson WS	£15 plus (see note)
4	Robert Brown WS	£15
5	James Davidson WS	£15
6	William Gardiner WS	£15

Note: James Anderson was allowed an additional sum not quantified due to having responsibilities for lighting and cleansing in Ward 3.

The Principal Clerk worked full time for the General Commissioners and the Superintendant. The position was offered to a David Turnbull, WS at an annual salary of £60 plus Court prosecution fees, guaranteed to be not less than £20 per annum. The fees recoverable by the Principal Clerk within the new Police Court were listed in a Table of Fees agreed under the 1805 Act by the Lord Provost and Sheriff Depute with the approbation of the Lord President and the Lord Justice Clerk. They all related to complaints raised at the instance of a private party and included for example:

- a 6d fee for every complaint raised by a private party;
  - a 4d fee for an written warrant to summons witness for a private party; and
  - a 2/- fee for attendance to the judge at a visit in cases requiring local inspection.
- However, when Turnbull declined the offer, the Superintendant was authorised to appoint someone else instead on the same conditions.<sup>83</sup>

The more onerous administrative tasks under the 1805 Act fell upon those concerned with finance. To finance the establishment, specific assessments and rates were imposed over and above the existing assessments of land cess, trade stent and watchmoney. As

regards the main assessment in respect of providing the new Police Force, the General Commissioners were empowered:

To assess all and every person or persons who do or shall inhabit any house, or inhabit or possess any shop or warehouse, cellars, vaults, or other tenements within the Wards in any sum not exceeding three pounds per centum of the free rent of such house, shop, warehouse, cellars, vaults, and other tenements.<sup>84</sup>

There were however exceptions to this provision. The assessment could not be applied to those premises having a real rent not exceeding three pounds sterling per annum, providing no 'spirituous liquors of any sort' were sold therein; and the General Commissioners had a discretion 'if they judge it expedient' to exempt premises having a real rent of less than five pounds sterling per annum. This assessment like the others under the 1805 Act was calculated annually from Whitsunday (15 May) with the rate being decided by the General Commissioners at Martinmas (11 November) each year. In the event of non-payment of rates, debts could be recovered by summary diligence and pouding of moveable goods in Scots law.

What complicated the 1805 Act and probably confounded those citizens liable to pay, was the other rates authorised to be imposed by the General Commissioners, for lighting and cleansing under the Acts of 11 and 12 George III (1771 & 1772). Under the main assessment provision already mentioned for the new Police, if the fund collected along with half of the fines recovered under the 1805 Act, could not support the cost of persons committed to the Bridewell, then the General Commissioners could specifically impose an additional assessment not exceeding one fourth of one pound per centum of the free rent of the premises liable to charge. Moreover for the expense involved in providing and maintaining the Police Court, the watchhouses, watchboxes, coats, batons and rattles as well as the expenses of obtaining the 1805 Act, the General Commissioners were granted the discretion of imposing another assessment not exceeding one pound per centum of the rent on the premises liable for a maximum period of three years.<sup>85</sup> The other assessments were imposed in respect of obligations for lighting and cleansing under the 1805 Act. Within the Ancient and Extended Royalties which was already subject to an

assessment of two per centum upon the valued rent of premises liable, there was substituted an annual assessment not exceeding two and one half per centum of the free rent of premises affected. Finally those other areas beyond the Ancient and Extended Royalties, but within the bounds of the 1805 Act were subject for the first time to the same two and one half per centum assessment.<sup>86</sup>

For the purpose of ascertaining the free rents of premises affected, the 1805 Act allowed the General Commissioners to appoint such numbers of persons as they thought proper as surveyors.<sup>87</sup> Principal and assistant surveyors were required between the months of July and September each year to draw up a distinct rent roll for each Ward and lodge it with the Principal Clerk. Occupiers liable to assessment could inspect the appropriate rent roll and submit written appeals in respect of their determined free rent within ten days. Appeals were heard by a Committee of at least four Commissioners. At the same time an alternative procedure was available for ratifying the rent roll in minor disputes which involved appeal to arbiters. Two persons to act as arbiters were each drawn from the Faculty of Advocates, Society of the Writers to the Signet, Edinburgh Merchant Company and from the Convenery of the Trades. Although not specifically mentioned in the 1805 Act, the General Commissioners also contracted a stationer and printer for the establishment.<sup>88</sup>

The key administrative position in relation to finance was that of General Collector. In May 1805, the General Commissioners appointed Neil MacVicar as Collector at a salary of £150 per annum.<sup>89</sup> Being a previous Lord Provost and already a wealthy person, he on his own volition lodged £2,500 in a current account as a security bond for any intromissions, on the understanding that the amount could be replaced by his collections in due course. To assist development, the 1805 Act empowered the Collector to borrow up to £3,000 initially and up to £2,000 annually thereafter.<sup>90</sup> The General Commissioners also appointed a sub-collector in each Ward with the requirement to keep accounts. Whereas the sub-collectors presented accounts on a monthly basis, the General Collector was required to produce an income and expenditure account for the previous financial year, commencing on 1 September 1806. The General Commissioners could of course

remove any collector from office if they thought it proper or replace any collector having deceased or become deficient through insolvency.<sup>91</sup>

The collection of rates under the 1805 Act, were problematic from the outset and became progressively worse with the passage of time. There may have been some element of incompetence by the collectors, but the fact was that a significant proportion of citizens liable did not pay what was due by them. Whether they refused as a matter of principle or could not as a matter of hardship is difficult to estimate. When the first annual report by the General Collector was laid before the General Committee in September 1806, they remitted the accounts to a Claud Russell for auditing, instructing him to make up a statement for publication. Russell later reported that the assessments collected in the year ending Whitsunday 1806 were about £1,000 in arrears. He recommended to the General Commissioners and they accepted that the General Collector be allowed time to bring the accounts to a proper balance by Whitsunday 1807.<sup>92</sup>

When the second annual report by the General Collector covering the two year period up to Whitsunday 1807, was laid before the General Commissioners in November 1807, they took a tougher stance. They directed the General Collector 'to proceed with all possible dispatch in recovering the arrears due and put an advert in the newspaper certifying those arrears' along with a warning that legal action would be taken against those who did not immediately pay their assessment. At the same meeting the General Commissioners instructed the General Collector to make up a list of those persons still in arrears by 1 February 1808, the date of their next scheduled meeting. The list was subsequently produced and at this meeting the decision was taken to proceed to legal action against the defaulters. MacVicar was granted an additional £50 for his efforts but then tendered his resignation on 12 February 1808.<sup>93</sup>

Thomas Gloag was subsequently appointed General Collector on 15 February 1808 and was granted a salary of £250 per annum. He obviously inherited a deficient account but the financial state of affairs continued to deteriorate. The accounts of General Collector MacVicar continued to be considered by the General Commissioners at their meetings in

May and November 1808 and January 1809. By May 1809 the General Commissioners noted that MacVicar's accounts had still not been completed and threatened to have his 'bond recorded and diligence done thereon for recovering the balance of funds which he has or ought to have collected.' Nevertheless in November 1809, the General Commissioners were still directing MacVicar and Gloag to collect their outstanding arrears and bring 'bygone accounts to a close.' In January 1810 however, the General Commissioners finally accepted the accounts of MacVicar and Gloag but ordered that the arrears be placed to the debt of the General Collector in a new account. At the same meeting a remit was directed to the General Committee to consider the list of arrears and 'report how far it would be expedient to exempt all houses and other subjects under £5 of yearly rent from payment of Police duties.'<sup>94</sup>

A General Committee report dated 1 June 1810 revealed the scale of the financial problem and figures for the years 1807/8, 1808/9 and 1809/10 and these are condensed in Figure 3E.

**Figure 3E - Outstanding Rates Arrears under 1805 Act**

Financial Year	Amount of Assessment	Amount Collected	Amount of Relief (See Note)	Total Amount Outstanding
1807-1808	£5884-4-0¼d	£5026-15-3¼d	£170-12-2¾d	£686-16-6¼d
1808-1809	£6061-4-4½d	£5057-10-10¼d	£169-7-3¼d	£834-6-2¾d
1809-1810	£6394-16-10½d	£2918-4-1½d	£228-12-2½d	£3247-19-8½d

*Note: Relief given on some appeals and also to those occupiers of premises with a yearly annual rent of less than £5 sterling.*

Thus whilst the total rates collected between 1807 and 1810 amounted to £13,002-11-1d, over the same period the total uncollected amounted to £4,719-2-5d. At the same time however establishment expenditure amounted to £13,667-16-9d with the £665-5-8d deficit being met by the General Collector. The fact that the sub-committee findings were near the end of the financial year 1809-1810 probably accounts for the unduly large amount outstanding. Assuming that the less wealthy citizens were proportionately slower and less



likely to pay, the conclusions to be drawn are that about 30% of inhabitants liable did not pay their assessment timeously, and at least 10% did not pay them at all.

In view of these findings the General Committee recommended that the General Collector should not be responsible for collecting Crown taxes, and should be paid on a poundage basis rather than a salary. They suggested £5 per centum of the money collected in the first three months and £3 per centum thereafter. The General Commissioners accepted these recommendations but allowed the £5 per centum rule to the first four months of collection. At the same June 1810 meeting, they also appointed Paul Baxter, an Insurance Broker, as General Collector. A petition from Baxter requesting that the £5 per centum rule be granted upon the collection for the whole year, because of the difficulty in collecting the arrears of Gloag, was granted by the General Commissioners in November 1811.<sup>95</sup>

## THE 1805 FORCE IN OPERATION

The new Police and system of police in Edinburgh commenced on Monday 15 July 1805 with an investiture ceremony for Superintendent Tait in the Police Court. Tait had taken his 'Oath to Government' before the Court of Session four days earlier, and after obtaining his Deputation of Sheriffship, he took his 'oath de fideli' before the General Commissioners in Parliament House. Those at the meeting then walked in procession between military and City Guards lining the street, up the Lawnmarket and to the nearby Court House where after prayers, 'to consecrate the institution', the Superintendent took his seat. The service was attended by all the General Commissioners and Sir William Forbes, who was given credit as being the 'chairman of the Committee of Citizens who originally met to frame the Bill'. In his reply to an address by Lord Provost Fettes who opened the new Police Court, Superintendent Tait took the view that:

Much of the virtue of a nation depends upon the exertions of the Police, in *preventing* crimes, in suppressing them in their infancy, and even in checking them in their advance progress, especially within the Metropolis,

which must always greatly influence and even regulate the morals of the country to which it belongs. (*italics added*)<sup>96</sup>

The emphasis of preventing crime also formed the exhortation given by Superintendent Tait to all the officers sworn into office. Whilst this emphasis on preventing crime received the approbation of the Sheriff Depute who addressed the assembly, no such emphasis is found in the text of the 1805 Act. Superintendent Tait had obviously become familiar with the idea during his protracted drafting of the Police bill with the assistance of Sir William Forbes and advice from 'Mr Colquhoun' in May 1804.

The first task for the Superintendent and the Inspectors was to organise the constables, officers of police and watchmen into shift patterns compatible with the three divisional night patrols undertaken by the reduced City Guard. Although the City Guard presence on these night patrols continued, it was depleted further by the return of officers to extended Guardhouse duties between nine and five o'clock daily.<sup>97</sup> Whether the day-shift City Guard rotated at intervals with their night-shift patrol colleagues, is not recorded. However their deployments were considered unsatisfactory by the Residential Commissioners, because by December 1805 the Superintendent was instructed to meet with the Town Council Bailies in order to adjust their duties. Even the shift patterns of the constables, officers of police and watchmen were not satisfactory for after the appointment of the seven extra watchmen in each Ward, the General Committee instructed the Inspectors 'to do every thing in their power to arrange matters in such a manner that a person in every Ward may be found on duty at all times to receive informations'.<sup>98</sup> The three divisional night patrols were under the command of the new Police and continued for some time. When the propriety of continuing these patrols was considered by the General Commissioners in May 1809, they decided to retain them for the time being.<sup>99</sup>

In December 1805 it was decided that the watchmen in each Ward should have watchboxes constructed with wood, 'sufficient to shelter without space to sit in and as plain as possible in form.' Ward 1 was allocated twelve such watchboxes and the other Wards eight each.<sup>100</sup> The new Police and the reduced City Guard also shared accommodation in the Guardhouse in the High Street. However in February 1808 the

General Commissioners thought that separate accommodation was required, and although the problem was referred to the General Committee, the outcome is not minuted.<sup>101</sup>

Apart from the immediate operational concerns of the new Police, initiatives were taken by the General Commissioners to produce new regulations under the 1805 Act for the purpose of imposing order and decorum in the city. Regulations dated 24 July 1805 - 'For keeping clean the Squares, Streets, Lanes, Foot Pavements and Passages, and Preventing Nuisances thereon' were made public in newspaper advertisements. A fine not exceeding 5/- could be imposed on any person who at any time of day or night, threw out ashes, filth, foul water, or insantrity of any kind except at the prescribed times for collection, and jurisdiction to deal with such offences was vested in the new Police Court. Moreover, regulations dated 27 July 1805, imposed restrictions on brokers beyond the Act of 40 Geo III (1800) c99. No broker was allowed to expose goods upon the High Street and any obstructions caused in the High Street by any trader was subject to a 20/- fine.<sup>102</sup>

The new Police were availed of by the Trustees of High Roads in the City established by the Highway (Scotland) Act, 1770.<sup>103</sup> Regulations dated 12 July 1805 repeated the Traffic Regulation (Scotland) Act 1772 which was aimed at carters, waggoners and chaise drivers. The ten regulations are detailed and comprehensive and worthy of specific reference if only to record public 'welfare' concerns over road safety as they stood at the beginning of the 19<sup>th</sup> century in Edinburgh. For example, offences were created for any carter or driver to ride a cart or carriage without a proper person on foot to guide it on the left nearside of the street; and for any chaise driver to be found sitting in a chaise without another person on one of the horses. It was also an offence to damage any road with a plough or by dragging of any article; and to ride a horse on any footpath. Damaging any bridge, parapet, turnpike gate, toll house, weighing machine, milestone, guidepost or other public works was also a specific offence and even fines which ranged from 10/- to £10 were prescribed. Offenders could be arrested without warrant by a Police officer or else prosecution could be raised within three months by an informer, who would be entitled to half of the fine imposed.<sup>104</sup>

## THE CITY CONSTABLES

Despite their functional role and prestigious position prior to 1805, there is no evidence to suggest that the City Constables under the Lord Provost were formally consulted about the new Police or indeed the Police bill in 1805. As a consequence of the obvious clash of roles when the new Police appeared on the street on 15 July 1805, the City Constables petitioned the Lord Provost in August 1805 to seek clarification of their position under the Act of 1661 c38 which had not been amended by the 1805 Act. They submitted the view that:

In all cases when the city constables come to act together with the said officers of police, within the ancient and extended royalty, that the city constable shall in every instance be looked upon as the *superior* officer.

Being drawn from the merchant classes, the City Constables clearly saw themselves not only of higher social status but also a higher functional status. The lengthy reply to the petition by the Town Council in September 1805 acknowledged the social standing of the Society of Constables, but did not address the central issue. Whilst the City Constables were recognised for their public-spirited and gracious services over the years, the Town Council:

Did not apprehend that any interference could take place between the highly respectable Society and the common police officers..... and never proposed to degrade the Society by associating any of their members in the same duties with the hired Watchmen.<sup>105</sup>

In essence the promise was made that the Lord Provost and Bailies would do their utmost to ensure that the duties of the City Constables and the new Police would not conflict.

The Society of Constables felt that the reply was not as conclusive as they would have liked, but decided not to press the point further. City Constables continued to be appointed at regular intervals to meet the demands of triennial rotation, however their role changed. After 1805, they were called out for duty by the Lord Provost and Bailies only

when the occasion demanded extra assistance to maintain order on the streets. Whilst the City Constables would undoubtedly be a welcome force to supplement the new Police on such occasions, they were destined to become increasingly supplemental and ceremonial. By April 1811, they petitioned the Town Council again and were granted the use of the title 'High Constables of the City of Edinburgh' so as to distinguish themselves from the officers employed under the Judge of Police.<sup>106</sup>

## TOWN OF LEITH

When Sir William Forbes promoted the idea for the new Police in a letter dated 29 November 1802 to Lord Provost MacVicar, he forwarded a copy to the Leith Commissioners and asked for their support for the Act of Parliament required for this purpose.<sup>107</sup> The Committee of five Leith Commissioners appointed to meet with Edinburgh Town Council Committee reported back in February 1803 that they failed to reach agreement about the new Police covering the whole of Leith. Edinburgh Town Council appeared to be unaware of the 1771 Act covering South Leith and the fact that £5,000 had already been spent under the Act in improving water supply. Leith Police Commissioners firmly resolved therefore that whilst North Leith would likely be included under the Edinburgh Act, South Leith should be left out entirely. A separate Act for (South) Leith was recommended with provision to levy rate assessments not exceeding 4★% in addition to the 2★% which was already levied under the 1771, in order to support a new Police under a General Superintendent.<sup>108</sup>

The remainder of 1803 was spent in protracted scrutiny of the proposed Police bill for Edinburgh with constant reminders to the Committee of Leith Commissioners to ensure that no part applied to South Leith.<sup>109</sup> The most detailed insight however into the consultative process involving interested groups on the new Police bill is revealed in a minute from Sir William Forbes presented by the Leith Committee to a meeting of Leith Police Commissioners in July 1804. It reported that Forbes chaired a meeting on 30 May 1804 which was also attended by the Lord Provost and others from Edinburgh Town Council, the Magistrates from Canongate, and Lord President Campbell and others

representing the Southern Districts. Whilst the Southern Districts had initially resisted the new Police bill, this opposition had now been resolved, and final agreement had been reached to exclude totally North and South Leith from the Edinburgh Police bill. Of particular interest however in this minute is a reference made to the contribution of 'Mr Colquhoun' at the meeting. Without specifying who he was, the minute concluded that his remarks 'may occasion considerable alterations upon the bill' to the extent that it was unlikely that the bill would progress through Parliament before it was prorogued that session.<sup>110</sup>

The reference to 'Mr Colquhoun' is of interest for it is likely to have been none other than Patrick Colquhoun who had well known reformist views about the Police. Colquhoun was admired for his work as Chief Magistrate for the City of London and in January 1800, the Town Council honoured him by conferring the privileges of 'Freeman of Edinburgh'.<sup>111</sup> Sir William Forbes was a contemporary of Colquhoun whom he knew through Chamber of Commerce contact between Glasgow and Edinburgh. In his *Memoirs of a Banking House*, Forbes described how his banking partner Mr Herries had made a lucrative contract with the Farmers-General of France for the purchase of tobacco in Scotland. The Farmers-General under the 'ancien regime' enjoyed exclusive privilege importing tobacco which was supplied from Scotland after being procured by the Glasgow merchants from North America.<sup>112</sup> Whilst the remarks made by 'Mr Colquhoun' about the proposed Edinburgh Police are not detailed, they were acted on and substantially altered the original proposals. Since the system of police proposed in March 1803 remained unchanged it can only be inferred that 'Mr Colquhoun' was the architect of the new Police as incorporated in the Edinburgh City Police Act in 1805. Nevertheless as the Edinburgh Police bill made its passage through Parliament from January until July 1805, the Leith Police Commissioners had legal agents in London ensured that North and South Leith remained unaffected.<sup>113</sup>

Further discussions about a new Police for North and South Leith did not materialise until January 1806. A Leith Police bill was drafted and discussed at meetings in April 1806 before being forwarded for Parliamentary approval in May 1806.<sup>114</sup> When this bill passed

through the House of Commons, slight amendments had been made which were not to the total satisfaction of the Leith Police Commissioners. At a meeting on 16 May 1806 a letter read from Bailie Wood in London, gave them the stark choice of either accepting the amended bill as it stood or withdrawing it altogether. When put to a vote by those Leith Police Commissioners present, sixteen voted to accept the Bill, whilst sixteen voted against acceptance. Bailie Mowbray who acted as preses cast his vote in favour, hence the Act received Royal Assent on 23 May 1806.<sup>115</sup>

The Leith Police Act 1806 was also a substantial piece of legislation containing fifty nine sections, but unlike the Edinburgh Police Act 1805 it was not limited in duration.<sup>116</sup> The 1806 Act only amended the 1771 Act for Leith inasmuch as the Commissioners already in existence under that Act, which included the Lord Provost and Bailies of Edinburgh, the Bailies of Canongate and North Leith, and the Bailies and Masters of the four Incorporations of (South) Leith, were to continue to function as ex-officio Commissioners. No distinction was made between General or Residential Commissioners, nor indeed between the powers exercised by ex-officio or elected Commissions. Thirty five Commissioners were elected annually commencing December 1806, six from each of the four Incorporations, six from the heritors of South Leith and five from the heritors of North Leith. The Leith qualification for election and the franchise was extended to persons with property valued rent of £15 yearly or upwards.<sup>117</sup>

Whilst the 1806 Act obliged the new Commissioners for Leith to hold four general meetings in July, October, January and April each year, five meetings were held in 1806. The Leith Commissioners met for the first time on 14 July 1806 for the purpose of putting the Act into effect. On 15 December 1806, one hundred and seventy-five heritors attended at the Convening house at Leith for the purpose of electing the thirty-five Commissioners.<sup>118</sup> The Commissioners were empowered to divide North and South Leith into different Wards and to decide which Commissioners attended to what particular business. The result was in January 1807 eleven Committees were appointed with varying numbers of members, each with a territorial Ward jurisdiction for the Shore (5), Baltic Street and Bernard Street (3), Tolbooth Wynd and Queen Street (3), St. Anthony's Street

and Lanes (3), Sheriff Brae and King Street (3), Quality Street and Charlotte Street (3), Constitution Street (5), Kirkgate (6), Yardheads (6), St. Johns Place and Links (5), Constitution Lane, Elbe street and Bath Street (3), and North Leith and Coathill (5). In addition, Commissioners were appointed to serve on the Water, Lamp, Dung and Appeal Committees.<sup>119</sup>

Although the roles and responsibilities of the Leith Police Commissioners under the 1806 Act were not specified, they collectively fulfilled the same range of functions as the General and Residential Commissioners appointed in Edinburgh under the 1805 Act. The range of statutory obligations and 'welfare' type offences again emphasised that the 1806 Act not only introduced a new Police but also consolidated a system of police to be enforced. Proprietors of houses and other buildings were now required to provide pavements of stone;<sup>120</sup> and to have leaden or other type of pipe affixed to the building so as to take water from the roof to the ground.<sup>121</sup> Moreover specific public safety offences were created for:

- causing any wheeled carriage to be drawn over foot-pavements;
- causing any obstruction on any street or foot-pavement;
- transporting logs of wood more than 20' long through streets, other than on four wheel carriages;
- keeping more than 4lbs of gunpowder in any public premises;
- keeping goods on quays overnight; and
- permitting any fire on board any ship or vessel lying in the Harbour.<sup>122</sup>

The system of police in Leith not only included lighting and cleansing provisions<sup>123</sup> but also the provision of laying causeways, making common sewers and numbering houses in streets.<sup>124</sup>

The 1806 Act acknowledged that the annual assessment of sixpence in the pound (i.e. 2½%) authorised in the 1771 Act had been insufficient. The 1771 Act was not repealed and therefore the 2½% assessment continued to apply to those liable. However, the 1806 Act imposed an additional annual assessment, not exceeding five pounds sterling per centum (i.e. 5%) of the valued rents of those liable under the 1771 Act and those similarly



liable in North Leith. The annual assessment was collected by the stent masters for North and South Leith at the same time as the cess, and annual accounts were available for public inspection in January each year.<sup>125</sup>

As the population of Leith was much smaller than Edinburgh, the total rates collected were proportionately less. From their first meeting on 14 July 1806 the Commissioners imposed the maximum assessments which meant that 7½% in South Leith and 5% in North Leith. Despite the disparity of liability between North and South Leith, there was no dissent expressed at the meetings of Commissioners. Although the assessments slightly increased each year, this reflected the growth of the town. A typical annual account for the year prior to 8 October 1811 shows that £1,099 was raised in North Leith and £1,285 raised in South Leith, providing a total of £2,384 to be discharged. The collection of the rates by the stent master who received 10% for his efforts, was not problematic, for arrears on the 1810/11 account only amounted to £127.<sup>126</sup>

Although the Leith Police Act 1806 enabled the Commissioners to introduce a new Police, their minuted meetings reveal that they were in no rush to do so. Whilst Edinburgh had a Superintendant in charge of the new Police, Leith opted for an Intendant to be in charge, responsible to the Commissioners and also the Bailies of Leith. The Act also allowed for the appointment of a clerk to assist the Intendant, and such number of watchmen as judged necessary for 'guarding, patrolling and watching' the streets of South and North Leith.<sup>127</sup> The Intendant of Police, clerk, watchman and officers were to aid and assist Bailies:

In apprehending, detecting, and bringing to Justice, Persons charged as Guilty of Street Robberies, Housebreakings, Assaults, Thefts, reset of Theft, Shoplifting, Picking pockets, Swindling, and other Crimes of that Nature;

And to aid and assist in apprehending and putting the Law into Execution against Vagabonds, Vagrants, idle and disorderly persons, and public and sturdy Beggars, and other Persons who follow no lawful Employment or Occupation;

In suppressing disorderly Public House, and other Houses frequented by persons of the foregoing Descriptions, in Suppressing Mobs and Riots, in assisting to extinguish Fires; and

In putting the Laws into Execution regarding Carters and drivers, or Owners of Carriages, and also Obstructions and Offences against Acts regulating the Highways, and for enforcing the regulations made or to be made.<sup>128</sup>

In undertaking their duties, the Intendant and watchmen had the powers belonging to the Office of Constable in Scotland. Whilst crime and disorder appears to have been recognised as an ongoing problem, there was no emphasis on preventive measures.

Although there was a division of roles and responsibility, Leith Police did not have the same bureaucratic organisation and command structure as the Edinburgh Police. There were no supervisory ranks proposed between the Intendant and the watchmen. Thus the new Police for Leith was merely a paid body of officers with a structure in many aspects similar to the existing Society of Leith Constables. Moreover the Intendant was not a Judge with his own Court. Instead he prosecuted crimes and offences in the public interest, by a new summary procedure similar to that adopted in Edinburgh, before the existing Bailie Court.<sup>129</sup>

For almost the first year following the introduction of the 1806 Act, the Leith Commissioners continued their former practice in respect of lighting, cleansing and watching in the town. Examination of accounts in October 1806 established that arrears of assessment under the 1771 Act amounted to only £23-11-6 over thirty-two years which was insignificant given the total assessments at that time were in excess of £1,000 annually. John Ross continued to be the full-time Police officer for the town, assisted by the four part time Town Officers. In April 1807, Ross presented a petition to the Commissioners seeking a rise in salary disclosed that he had been the Police officer for twenty-three years, and for fifteen years his salary had been £25 per annum, before rising to £31-4-0 in January 1799.<sup>130</sup>

The petition from John Ross may well have been prompted by his disappointment by not being considered for the position of Intendant. When the elected Commissioners met in January 1807 they decided to advertise for an Intendant at a salary of £100 per annum. By April 1807, the Commissioners considered a list of fifty-four applicants and produced a short list of six. A Committee comprising the Bailies of Leith and Canongate, and the masters of the Four Incorporations made further enquiries about the short listed candidates. A general meeting of the Commissioners on 27 April 1807 overwhelmingly supported John Donaldson, then Inspector of Roads for the County of Haddington, to be Intendant. He was appointed from Whitsunday 1807 with his salary payable quarterly.<sup>131</sup>

Whilst John Ross was retained as a Police officer with his salary raised to £45 per annum plus house accommodation, the series of reports which followed from the newly appointed Intendant focused on matters of building safety rather than the need to recruit watchmen. The reports submitted during 1807 to the Commissioners for consideration concerned projecting stairs in Tolbooth Wynd and other doors opening outwards onto streets; and the need for water pipes in Leith harbour in case of fire.<sup>132</sup> John Donaldson was employed as Intendant of Police for only nine months before he died. By April 1808, the Commissioners had considered another short list of six candidates for the post before they unanimously appointed James Frederick Denovan, then assistant to the Town Clerk to be Intendant for a six month period from Whitsunday 1808.<sup>133</sup>

Intendant Denovan continued outstanding remits spending much time on establishing the requirements for water pipes in Leith Docks.<sup>134</sup> However he also took a great interest in establishing a new Police. By October 1808, the Leith Commissioners resolved to have the Town Officers under the directions of the Intendant and appointed a Committee to discuss the issue with the Bailies. Although they also gave the Committee the remit to examine the need for watchmen under the 1806 Act, the outcome of their deliberations are not minuted. In any event a meeting in April 1813 decided that watchmen in Leith were 'impracticable for want of funds.'<sup>135</sup>

Despite the absence of watchmen on night duties in Leith, the existing Police officers with the Intendant did give attention to the duties under the 1806 Act. Although no records were kept of the endeavours, the minutes are punctuated with payments made for particular actions. Whilst John Ross was the full time Police officer, the four Town Officers undertook duties on a part-time basis. They wore a uniform which is not described but which was paid for at regular intervals by the Commissioners. Particular expenses made for enforcing the 1806 Act included for example:

- £3-4-6 to the Intendant for going to Glasgow in November 1807 in quest of depredators;
- £1-9-6 to two Town Officers in January 1808 for apprehending people breaking lamps;
- £2-2-0 to the people of the Rendsvous (probably a ship) in November 1808 for patrolling the streets; and
- £6-15-6 to the town drummer and officers for conveying sundry vagrants over 1809/10 to the Bridewell.<sup>136</sup>

Intendant Denovan was instructed by the Leith Commissioners in January 1811 to keep a book in respect of all persons charged and fines inflicted under the 1806 Act, but this is not extant. The task must have been onerous for at the same meeting the Commissioners approved the appointment of an Assistant Intendant with a salary of £45 per annum. Assistant Intendant Robert Craig was not however appointed until April 1812 and although his duties were not prescribed his appointment is indicative of increased demands on the existing Intendant and Police officers.<sup>137</sup>

## LAW AND ORDER

Apart from the bureaucratically organised new Police with a hierarchical command structure, the establishment of the Police Court in which Inspectors acting as Procurators Fiscal, prosecuted offenders in the public interest before the Superintendent as Judge of the Court, was the most significant improvement to the criminal justice system under the 1805 Act. The Police Court with the new summary procedures ensured much more effective enforcement of the law. A hand-written account of all the cases prosecuted before and dealt with by Superintendent Tait was kept in a brown hide bound Court Book. Although three such books were used over the period 1805 until 1812, only one Court Book is extant. The significance of this Police Court Book is only appreciated in the absence of Tolbooth records and records of the Lord Advocate Department of Scotland which are lacking detail.<sup>138</sup>

The first accused person appeared in the Police Court on Wednesday 17 July 1805. Inspector Metcalf presented the only case that day against a James Alexander who was fined 10/- for assault. Case number 2 recorded was presented by Inspector Brooks on 19 July 1805 against a private William Johnston who was also fined 10/- for riotous behaviour. Thereafter a steady flow of accused persons began to appear before the Police Court and by the end of 1805 a total of 1,207 cases had been prosecuted. During 1806 a total of 2,549 cases were prosecuted including those in which there was more than one accused. The majority of prosecutions were against persons committing 'welfare offences' such as causing an obstruction with animals, committing a nuisance (i.e. urinating) and riding a horse or cart furiously in the streets (i.e. traffic offences) and vagrant beggars. Although in the vast majority of cases a fine of 10/- was imposed by the Superintendent, he nonetheless appears to have acted judiciously because there were regular instances of defenders being assolized and cases being dismissed on incompetent charges.

Figure 3F shows three one year profiles drawn from crimes and offences recorded in the Police Court Book and this provides some insight as to the type of environment the new Police found themselves in.

**Figure 3F - Profile of Edinburgh Police Court Book (1805-1807)**

Crime or Offence	17 July 1805 14 July 1806	1 January 1806 31 December 1806	15 July 1806 30 July 1807
Assault	314	365	279
Wife assault	33 15.10%	31 18.29%	23 18.21%
Police Assault	30	31	19
Rioting and Breach of the Peace	440 17.63%	362 15.50%	255 14.46%
Theft	305	349	284
Dishonesty	116 20.28%	119 23.24%	171 29.33%
Vagrancy	85	74	62
Sexual Offences	36 1.44%	29 1.24%	6 0.34%
Malicious Damage	18 0.72%	13 0.77%	25 1.42%
Welfare	420 17.86%	354 17.09%	182 15.77%
Obstructions	26	45	96
Cleansing	194 7.78%	222 9.50%	150 8.50%
Traffic Offences	479 19.19%	336 14.39%	211 11.97%

Totals	2,496 out of 2,651 cases examinable	2,335 out of 2,475 cases examinable	1,763 out of 1,827 cases examinable
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The categorisation of crimes or offences deserves further explanation. The assault cases are clearly discernible for the person assaulted was usually specified. Breaches of the peace invariably included elements of assault because charges such as 'knocking down a person' and 'fighting in the street' were common, but they are distinguished because no injured complainer is specified. Again the theft and vagrancy cases are clearly discernible, but the 'Dishonesty' category covers those cases of 'wilful imposition' falling short of the crime fraud. Such charges included 'deficient measures' but the majority concerned charges of 'deficient coals' which meant carters with coal carts without proper tickets of weight certification. Under the category of sexual offences the most common charge was

'street strolling' by females but there were occasional cases of householders 'enticing young girls for the purpose of prostitution'. Cleansing offences usually involve charges of 'throwing down filth' and are distinguished from a variety of welfare offences ranging from 'allowing poultry to go at large' to 'allowing his chimney vent to go on fire'. Although a range of traffic offences were introduced, by far the majority of charges concerned either 'riding on a cart' or 'riding in a furious manner'. Of the cases not accounted for in the profiles, some were of the nature of a petition for relief such as release from imprisonment in the Tolbooth or recovery of property, while others involved innominate offences like Police officers neglecting their duty.

There were also many cases of accused persons being charged with common law crimes of theft, breach of the peace and assault. A significant number of the assault cases involved 'wife beating'. Case number 13 prosecuted in July 1805 by Inspector Pratt against a Thomas Robertson for assault, on his wife resulted in the first instance of sixty days imprisonment in the Bridewell being imposed by the Superintendant. Imprisonment of any form was relatively rare for out of the 1,270 cases prosecuted in 1805, only forty-five resulted in sixty days imprisonment in the Bridewell. Indeed only two cases of thirty days imprisonment in the Tolbooth are recorded for the same period. Some cases brought before the Superintendant confirm the commitment to rid the city of other social evils. Case number 391 prosecuted in September 1805 by Inspector Metcalf against a Jean Clark or Morton, 'keeper of a disorderly house' concerned a charge of 'decaying young girls for seduction' for which the accused was sentenced to sixty days hard labour in the Bridewell. Case number 631 prosecuted in September 1805 again by Inspector Metcalf against a John Robb residing in West Bow, concerned a charge of 'keeping a notorious house of bad fame.' The accused in this case was held liable to 2/6d in expenses and agreed that if he left the house within fourteen days he would be absolved.

A scan through the names of accused persons reveals that the majority are of working class origin, especially in relation to the petty common law crimes. As regards the statutory offences however, the more important inhabitants of the city sometimes feature. Case numbered 1088 dated 6 December 1805 for example records that the Rt. Hon.

Henry Erskine (then Lord Advocate of Scotland) was fined 5/- and 2/5d in expenses for allowing his home chimney vent to go on fire. Police officers sometimes found themselves in the dock particularly for 'neglect of duty'. One Hugh Gunn, a watchman in Ward 2 appeared on 30 April 1806 for 'gross neglect of duty by deserting his station'. The case (number 2313) against him by Inspector Stevenson was dismissed (presumably for insufficient evidence) but Gunn received a reprimand nonetheless. When he appeared again in May 1806 on a similar charge (case number 2462) he was sentenced to ten days imprisonment in the Tolbooth and discharged from his office of watchman.

The overall impression gained by reading the contents of the first Police Court Book is that the major problem and challenge for the new Police was tackling the unruly inhabitants of the city. Approximately one third of all the cases prosecuted involved assaults and breaches of the peace in which 'drunkenness' was commonly and specifically libelled. Moreover the vast majority of the breaches of the peace cases involved two or more accused. Whilst the majority of the accused were local in a city bristling at the time with various militia, it is hardly surprising that the lower ranks frequently featured in conflicts. Moreover, the need to impose social order is evident from the fact that almost half the prosecutions enforced welfare, cleansing and traffic regulations. Detected petty theft and dishonesty although significant, only accounted for about a quarter of the prosecutions.

Despite the large number of persons appearing before the Police Court as a consequence of the new Police prosecuting in the public interest, pronouncements were made that such action was aimed at preventing crimes and offences. In an early case in August 1805 involving two gentlemen who had challenged each other to a duel, the newspaper account quoted Superintendent Tait who said: 'the leading principle is the *prevention* of crimes of all kinds' and bound both defendants over to keep the peace. After six weeks of operation, the same newspaper noted that more than three hundred cases had been determined and took the pious view that:

We hope that a vigorous Police will soon diminish the number of cases. In many instances, the punishment in the Court of Police has taken place



within 12 hours, and in most cases within 24 hours, of the time of committing the crime, which ought certainly to have a considerable effect in preventing future offences.<sup>139</sup>

This view of course underestimated human nature and the fact that the conduct of many individuals did not meet the prescribed civic code and benchmark of public welfare. Whilst it was later disclosed that the Police Court had dealt with 2,857 cases in the first year of operation from 15 July 1805, over the equivalent year 1809/10 it dealt with 1,322 cases and in 1810/11 it dealt with 1,213 cases.<sup>140</sup>

It is difficult to assess what the Edinburgh public thought about the new omnipresent Police or how they reacted to them. There is certainly no evidence of widespread and open hostility to the new Police officers but the Police Court book records instances of individual aggression towards some. Further evidence of assaults against the new Police is alluded to in the minutes of the General Commissioners. For example in December 1806 two guineas was paid to Donald Cameron, surgeon, for healing the wounds of William Henderson, watchman in Ward 4, who had been assaulted and stabbed while on duty. In June 1807 the General Commissioners refused a petition from George Spankie, a merchant seeking compensation for damages sustained to his shop when stones were thrown at a policeman who had taken a boy into custody. Spankie claimed that the policeman had acted imprudently by carrying the boy from the middle of the street into his shop doorway. But at the meeting in January 1810 the General Commissioners allowed the petition of Frederick Doig a grocer in the Lawnmarket. Doig claimed £2-5-0d for broken panes of glass in his shop caused by people crowding into the shop following persons taken into custody by the Police officers. The General Commissioners allowed him £1-1-0d and offered to put a stanchion on his window to prevent further accidents.<sup>141</sup>

Contemporary newspapers regularly reported brief accounts of some of the more peculiar cases prosecuted in the Police Court with constant emphasis on the punishment imposed. These accounts of two or three cases in every edition of course represented a very small proportion of actual cases prosecuted and therefore in no way typifies the perceived law and order problems of the time. However newspapers and most certainly the *Scots*

*Magazine* did feature the more atrocious and outrageous crimes coming to notice throughout Britain and given the relative infrequency of such crimes, it is fair to surmise that the majority of serious crimes whether solved or not, were published as a matter of public concern and interest. As already indicated the *Edinburgh Review* which commenced publication on October 1802 took no interest in Police or crime articles at this period, and therefore it can only be assumed that law and order was not initially a Whig issue.

One of the most 'atrocious' local crime to come to notice and remain unsolved under the new Police occurred on 13 November 1806. A bank porter, William Begbie, was found murdered about five o'clock that evening in Tweeddale Court, Canongate, with a 'sharpened' bread knife in his chest. A purse containing £4,392 in mixed notes which he had conveyed from Leith to deliver to the British Linen Bank in Tweeddale Court had been stolen. Despite a £500 reward offered by the bank; and a number of suspicious characters being apprehended and brought before the Sheriff Depute for examination, and searches of numerous 'houses of bad fame', the culprit was not identified. The outrage brought great public pressure to reform what was perceived to be an ineffective Police, and this was acknowledged by the Town Council. Public interest in the unsolved case was aroused ten months later, when on 10 August 1807 an apprentice mason in the presence of two workmen, found £3,000 of the stolen notes secreted in a stone wall in the Bellevue area of the New Town. The only further light thrown on this mysterious case followed in a publication in 1822 to which Intendant Denovan contributed his theory that a James MacKoull was the person responsible.<sup>142</sup>

Investigation of the more serious unsolved crimes still tended to be overseen by the Sheriff Depute. Thus in November 1808, Procurator Fiscal William Scott, placed two advertisements and public rewards in respect of thefts by housebreaking in Leith. The first referred to a break-in on 20/21 November when a merchant shop was entered by false key and £196 cash stolen, whilst the second referred to another break-in into the same shop on 27 November by false keys when £1,961 was stolen. Rewards of 200 and 300 guineas were offered respectively upon conviction of the person(s) responsible.<sup>143</sup>

The fact that the Sheriff Depute also managed criminal informants can be drawn from several cases reported during that period. On 11 November 1809, police officers under the guidance of the Sheriff Depute watched a merchant's shop in Picardy Place, Edinburgh and observed it being broken into by false keys. Two thieves were caught inside the premises whilst a third who kept a 'lookout' made good his escape. At the subsequent High Court trial in January 1810 of Charles McQueen and Alex Baily alias Lyon, a native of Colchester, Essex, but of no fixed abode, McQueen claimed immunity from prosecution on the grounds that he had informed Sheriff Depute Rae about the intended break-in. The Sheriff Clerk confirmed in evidence that McQueen had spoken to the Sheriff, and acknowledged that he had met him in the street, but had refused him expenses in relation to attending gang meetings. Sheriff Depute Rae himself deponed that McQueen was warned not to proceed to commit the crime that he had provided information about.<sup>144</sup>

The widespread availability and illegal use of firearms was a common problem. Whilst 'duelling' or indeed 'issuing a challenge' was deemed a crime, it continued as a regular feature of military and gentlemanly conduct because incidents were regularly prosecuted. Other shooting incidents happened periodically, as in October 1810 when a man in North Bridge, Edinburgh shot another male dead, before shooting himself in the head as a watchman approached him. Armed robberies were obviously more common and the problem was compounded by the movement of military units and demobbed soldiers throughout the country. The more atrocious were reported in detail, as in April 1811 when a soldier travelling between Berwick and Edinburgh was attacked by two men near Duddingston, three miles from the city centre, and robbed of £8. He had been shot and beaten and died three days later at the Royal Infirmary without the culprits being traced.<sup>145</sup>

Robberies were not confined to the city, for in September 1811 it was reported:

During the last few weeks, a great number of petty robberies and thefts have been committed in the houses and villages in the neighbourhood of this City by gangs of youthful robbers.

The following month, a private in the Argyllshire militia found himself accosted by three males in Danderhall, three miles to the south of the city, and had his right thumb cut off before being robbed of a watch and papers.<sup>146</sup>

The mobility of criminals and the ability of the Police to liaise in a co-ordinated detective response is exemplified in the robbery of the Paisley Union Bank in July 1811 in Glasgow. The Glasgow Branch had been entered with false keys over the weekend 13/14 July and about £45,000 in notes stolen. Local enquiries established that three men had been seen in Stirling Road, Glasgow counting notes before boarding a post chaise bound for Airdrie at five o'clock on the Sunday morning. Two bank officials followed the trail and established that the three suspects had changed to a coach to Westercraig, using a £5 Paisley Union Bank note and again changed coach for Uphall in Linlithgowshire. Late on Sunday, a post boy had conveyed them through to Edinburgh, dropping one in Maitland Street, the second in Princes Street and the third at the east end of Princes Street outside register house. Whilst the trail was lost initially in Edinburgh, by the following Friday Leith Police reported that the described men had taken a coach south.

By 20 July 1811, Mr Archibald Campbell described as a detective officer from Edinburgh along with the two bank officials called at the Bow Street Magistrates Office having trailed the suspects to Welling in Hertfordshire, then to Tottenham Court and finally to Coventry Street, London where the trace was lost. Mr Campbell along with three Bow Street officers - Lavender, Vickery and Adkins, searched the Tottenham Court address and found a box containing a number of picklocks and skeleton keys. Although the occupier, Hufton White, an escapee from one of the hulks at Woolwich was detained, his associates still outstanding James Moffat alias MacKoull and Harry French managed to 'negotiate' his release with £12,000 which was agreed by the bank officials. MacKoull was arrested six months later by the Bow Street officers and brought to Edinburgh. However a legal blunder during the High Court trial on 12 July 1812 enabled his release from custody.

Nothing was heard about MacKoull for about three years until he started to reside with a woman in Portobello. He came to notice after placing £2,600 in a bank account which was

seized by the Paisley Union Bank as part of the proceeds from the robbery. MacKoull returned to London and a civil action dragged on for five years before the bank asked Leith Intendant Denovan to assist. Denovan retraced his route nine years later, and succeeded in having both the blacksmiths in London who made the keys and Mrs MacKoull his estranged wife give evidence for the prosecution. MacKoull was tried at the High Court in Edinburgh on 18 June 1820, found guilty and sentenced to death. However three days before his planned execution, he managed to obtain poison and committed suicide. Intendant Denovan having traced a key witness to the 1806 Begbie murder who returned many years later from overseas voyages, was convinced from the description of the male seen to be following Begbie, that MacKoull had been the culprit. He could also prove that MacKoull had resided in Leith at the time of the robbery and murder.<sup>147</sup>

Unlike Superintendent Tait, Intendant Denovan was skilled in the craft of policework and during his tenure in Leith made his mark by paying attention to detail. Regular advertisements appeared in the Edinburgh newspapers with rewards - as in December 1807 for information about two deserters from Leith militia stationed at Dalkeith; and in February 1811 following thefts from shops in Leith.<sup>148</sup> In February 1809, he uncovered a systematic fraud which had remained undetected for many years in Leith Docks. By means of a specially made tin tube inserted into bored holes in casks of sugar imported from London, dockers had stolen great quantities of sugar over the years.<sup>149</sup> In August 1809 upon receipt of information from Bow Street, Intendant Denovan arrested a John Mullen and two associates at Leith races, wanted for pocket picking in Berwick upon Tweed and murder in Ireland.<sup>150</sup> Obviously his liaison with Bow Street officers was on a reciprocal basis, for in November 1811, Bow Street officers Vickery and Adkins arrested a John Ralph for stealing bank notes at the races on Leith Sands in July 1811.<sup>151</sup>

Finally, against this background of locally reported violence and disorder other events added to the sense of vulnerability and insecurity in the community. Criminal prisoners in custody seldom escaped, but when they did, their descriptions were circulated along with a reward as in the case of William Sandison who escaped from Canongate Tolbooth on 16 December 1807 after being conveyed there for theft in Musselburgh.<sup>152</sup> However more

problematic were the hoards of French prisoners of war guarded by the military in various compounds throughout the shire. In March 1811, an attempt by French prisoners to escape from a camp in Dalkeith was thwarted and in the disturbance which followed two prisoners were killed. As a result, four hundred and fifty French prisoners were marched to containment in Edinburgh Castle. On 13 April 1811, forty-four French prisoners escaped from the castle and their names and descriptions circulated throughout Scotland. On 26 April 1811, another attempt by French prisoners to escape from the encampment in Valleyfield, Penicuik by digging two tunnels was thwarted. Again in July 1811, eighteen French prisoners escaped from Edinburgh castle, but all but one were recaptured in the city.<sup>153</sup>

## THE DEMISE OF THE 1805 POLICE AND SYSTEM OF POLICE

If the terms of the 1805 Act did not arouse much public attention before the new Police and system of policing commenced, it certainly did afterwards. Dissatisfaction grew gradually and probably reached a peak towards the end of 1806 after the Begbie murder. There was a general underlying problem of collecting rates due under the 1805 Act but the more specific causes of dissatisfaction appear to have been the perceived inadequacies of the new Police and the abuse of power by Superintendent Tait whilst acting as Judge in the Police Court.

Financial difficulties from the beginning forced the General Commissioners to order a major review of the establishment by the General Committee in December 1806. The review followed concerns expressed by the Edinburgh Merchant Company. They claimed that the total assessments made under the 1805 Act amounted to 10% of free rent, but they later accepted that the true figure was 7%(i.e. 3% for police, 3% for lighting and cleansing, and 1% for watchhouses).<sup>154</sup> When the General Committee produced their report in February 1807, the General Commissioners ordered it to be published as a pamphlet and circulated to those who had expressed concern. The review estimated that the Police establishment cost £5,200 per annum and recommended:

- (i) that only three Inspectors were required with Wards 1 and 4, Wards 2 and 3 and Wards 5 and 6 combined with Inspector's salaries at £90, £80 and £80 per annum respectively;
- (ii) the clerks in each Ward and the office of Head Constable could be ended;
- (iii) four constables instead of six would be sufficient at the Police Court;
- (iv) it was reasonable for the City Guard to undertake the duties of day watchmen, which would save the pay of ten men; and
- (v) since the establishment estimates allowed £200 for the General Collector, £50 fell to be saved because the agreed salary was £150.

The estimated savings to the establishment are detailed in Figure 3G.

**Figure 3G - Savings in Expenditure Introduced in 1807**

Estimated expense of the establishment		£5,200
Deduct		
3 Inspectors	£190	
Head Constable	£ 50	
6 clerks	£ 90	
2 constables	£ 52	
10 day watchmen	£312	
3 watchhouses	£ 30	
Collector	<u>£ 50</u>	
	<u>£774</u>	Reduced Expense <u>£4,426</u>

The General Committee reckoned that the reduced expense represented a sum equal to an assessment of 2½% upon the current free rents in the city and for that reason the recommendations were accepted by the General Commissioners and implemented. Despite the proposed reduction in Establishment expenditure, the Edinburgh Merchant Company had substantially shifted in its support for the 1805 Act. The Merchant Committee which met on 17 February 1807 to consider the printed Report from the General Committee, resolved that the:

Act is highly oppressive, expensive and vexatious, inasmuch as its bounds are too extended; the powers of the Judge of Police exorbitant and the office unnecessary; and the assessments are extravagant and unequal and therefore the whole system should be abolished and replaced by the system operating in Glasgow. The General Commissioners basically ignored this resolution and the 1805 Act continued unreformed. This resolution however was the first sign of major dissent from a faction of merchants, but there is no evidence to suggest that 'political' differences underpinned the respective positions.<sup>155</sup>

The Begbie murder in November 1806 which remained unsolved, stirred public anxiety and concern about the inadequacy of the new Police to prevent that type of crime or apprehend those responsible. The dissatisfaction with the new Police however was expressed primarily at Superintendant Tait, or more specifically at the powers he exercised as Judge in the Police Court. The most articulate opposition to the powers of Superintendant Tait came in the form of an anonymously published letter dated 25 December 1806 to the Rt. Hon Henry Erskine, Lord Advocate of Scotland, subscribed 'Civis'. The unknown author obviously had legal training for he encapsulated the constitutional and legal flaws in the 1805 Act which could easily result in the abuse of power by the holder of the office of Superintendant. Indeed 'Civis' may have been around for some time for an age when the 'moralists' tended to use pseudonyms repeatedly, 'Civis' had made such contributions to the *Caledonian Mercury* as early as April 1779. After referring to the 'code of legal tyranny' which the 1805 Act conferred on the Superintendant the author asserted that he:

Actually punished as crimes, actions that are not known in our old law as inferring the punishments which he has annexed to them; and therefor his office trenches upon the legislative branch of the Constitution: He arbitrarily declares what is a crime, and he punishes it as arbitrarily as he declares it.

Having asserted the main points of his argument, the author questioned the need to punish so severely vagrants or common beggars many of whom had 'bled in the cause of his country'. Such sentiment was incidental to the main thrust of the letter, but none the less was one of the early indications that not everyone agreed with the ruling class views.



More importantly, 'Civis' condemned 'the very dangerous rule of giving the half of all fines to the officers as 'a stimulus to their exertions' because it was in conflict with the principle of prosecution in the public interest. The author concluded that 'a total repeal of the Act, or an emendatory one to remove its pollutions, is a measure of imperious necessity.'<sup>156</sup>

Another important point of principle had been covered by the General Committee when they commenced their review in December 1806. It concerned the accountability of the Superintendant to the General Commissioners. The General Commissioners agreed that public doubts on the lack of accountability were not well founded because:

The whole Act is framed on the supposition that the Superintendant is amenable to the Court of General Commissioners which has power to take cognisance of any neglect of duty in the Superintendant, or misconduct of any kind and if necessary remove him from office on sufficient cause being shown.

Although the General Commissioners approved this view along with the establishment review in February 1807, they instructed the General Committee to continue their enquiry to suggest all possible improvements to the new Police including the issue of public accountability.<sup>157</sup>

After the manpower reductions recommendations were implemented in March 1807, several General Committee reports focused on the perceived flaws in the new Police and system of police. Accepting that the powers of the Superintendant were extensive and that it was possible for a person holding that office to be 'oppressive', the General Committee saw no other way for the new Police to be as effective in law enforcement. They pointed out that:

The great evil complained of in the old system under the Magistrates was that the most worthless vagabond who could raise a few shillings to advocate his cause might escape punishment; as it must be obvious that the fund even of the City of Edinburgh might have been inadequate to the daily and enormous expense attending the discussion of every suspension and advocacy that might be effected of their sentences

and supported their argument by declaring that the delay and trouble of bringing offenders to justice was reckoned to be the greatest error of the Glasgow Police Act of 1800. In effect the new Summary form of Court procedure was accepted as more effective and efficient than the form of pleadings that existed hitherto, and therefore the system was retained. As regards the conflict of principle over the share of half the fines paid out to the new Police officers, their solution was to have the share of fines divided amongst the police officers collectively on a monthly basis, rather than paid individually after conviction. The proposed new Police bill incorporating these measures and increasing the number of wards was published in December 1807.<sup>158</sup>

Meantime the public debate about the powers exercised by Superintendant Tait continued during 1807. Cockburn cites the case of George Thompson, a correspondent of Burns, who gave a ball in his house in January 1807 in memory of the bard when the Police intervened to stop the dancing. Mr Thompson complained about the action of a Serjeant Murray and a watchman and this was investigated by Inspector Baird who reported the circumstances to Superintendant Tait. Apparently after receiving a complaint from a neighbour about a noisy party in West Bow, Serjeant Murray had called at the house after nine o'clock that night to find 'the whole house shaking' with thirty persons dancing. Serjeant Murray was found to have acted properly in cautioning Mr Thompson against continuing the noise, but acted improperly threatening to take him to the watchhouse if the dancing did not stop before ten o'clock. Letters of correspondence about the saga were published in the newspapers as were anonymous letters of resentment about the power of the new Police to intervene in what for long was seen as a common custom of celebration. Reviewing his power to prescribe new offences, Cockburn concluded that 'this tyranny was bad enough for the rich, but it was far worse for the poor, whom the accusing spirit and recording angel tortured without pity or control'.<sup>159</sup>

Yet another incident occurred in June 1807, when excessive force and abuse of power by the City Guard, brought the new system of police into disrepute. A Burgess, John Wightman, was celebrating the birthday of the Prince of Wales on Sunday evening, 4 June at home with his friend. His house was situated opposite the home of ex-Lord

Provost Robert Montgomery. Unfortunately after both Wightman and his friend had consumed much drink, the friend leaned out of a window and 'puked' in view of the maid servant to Montgomery. The maid became even more upset after an exchange of words and reported this to her master. Montgomery tasked her to fetch assistance from the City Guards. When she called at the Guardhouse the Captain was not present, but the duty serjeant sent a corporal and ten men back with the maid. The Guards entered the house uninvited and physically dragged Wightman and his friend to the Guardhouse. They managed to secure their release by bribing the soldiers with 4/6d. Wightman objected to the intrusion into his house without warrant but the outcome of his complaint is not recorded.<sup>160</sup>

Notwithstanding the deficient collection of assessments made under the 1805 Act, which became progressively worse each year and the consequential problems of financing the establishment, the main underlying cause for dissatisfaction in the new Police and system of police was undoubtedly the judicial role of the Superintendent. Despite the consensus as early as 1807 of the need for an amended Police Act, the 1805 Act continued until 1812. The General Commissioners appointed another ad hoc Committee in November 1808 to revise the new Police and system of police. Their main conclusion accepted by the General Commissioners in January 1809 was that the Police Court was altogether unnecessary for:

Ordinary jurisdiction vested in the Magistrates, Sheriff and Justices at common law is perfectly sufficient to remedy every evil which can possibly arise under any system of Police.

They also resolved that there was a need for reform of the Bailie Court so that summary proceedings would be 'the most simple, least expensive and at the same time completely effective that can be devised.' A Sub-Committee was then tasked to draft yet another new Police bill.<sup>161</sup>

Although the Sub-Committee was appointed in January 1809 to draft a new Police bill, progress was protracted. The General Commissioners learned in May 1809 that a new Police bill had been drafted but that an application to Government for financial assistance

to support the new system had been refused. A copy of the new Police bill was produced in January 1810, but it appears to have 'lain on the table' for information of the Commissioners. At a time when public minds focused on the continued hostilities with the French, it may have been deemed imprudent to incur further expense and Parliamentary time to seek early amendment of the 1805 Act.<sup>162</sup>

The circumstances which created an acute crisis in public confidence of the new Police and which hastened the need for new legislation to amend the system of police were the so-called 'hogmanay riots' which took place during the late hours of Tuesday 31 December 1811 and the early hours of Wednesday 1 January 1812. In keeping with a tradition which had existed from time immemorial, crowds had gathered in the High Street near to the Tron Church, to celebrate the arrival of a New Year. What more accurately occurred was a series of brazen assaults and robberies perpetrated by gangs of youths. The *Scots Magazine* referring to them as 'idle apprentices' reported that:

During almost the whole of the night, after eleven o'clock, a gang of ferocious banditti, armed with bludgeons and other weapons, infested some of the leading streets of this metropolis, and knocked down, and robbed, and otherwise most wantonly abused almost every person who had the misfortune to fall in their way.

Enquiry revealed that two dozen or so persons had over a period of four hours, been the subject of indiscriminate assault and robbery. The scale of the street violence and disorder was such that about seventy public lamps were broken and a watchman named Dugald Campbell who had intervened in the rescue of a victim during the early hours of the New Year in Stamp Office Close, off the High Street was so savagely attacked, that he died from his wounds on 4 January 1812. A member of the public named James Campbell, a clerk from Leith was similarly attacked in a separate incident about the same time, and he died on 7 January 1812.<sup>163</sup>

Other Police officers and no doubt other members of the public probably suffered lesser injuries which are not fully recorded. Serious injury to another watchman named Robert Bryce who was on duty on the night of 31 December, is only alluded to at a meeting of the

General Commissioners in September 1812. After hearing a claim by letter from a surgeon name Newbigging, they granted his expenses for attending to the wounds of Bryce. The disabled Bryce was also granted an allowance of 8/- weekly which continued until he died in April 1814.<sup>164</sup>

The *Scots Magazine* account in 1812 described the traditional role of the Bailies as Magistrates directing the Police in a public order situation, and confirmed that the traditional method of Bailies taking the lead in investigating serious crime still existed. Emphasis was placed on the common law power of the Magistrates to order and direct police officers, as they could ordinary citizens and accordingly:

By the vigilance of the Magistrates, who were on the streets, or otherwise actively engaged in the duties of their office, until about five o'clock on Wednesday morning, several of these rioters were apprehended on the spot.

It appears in fact that only one apprentice named John Skelton was arrested during the disturbances and this was on the initiative of a watchman and not a Bailie. But during the subsequent investigations it was the Bailies who offered a reward of one hundred guineas for information leading to the conviction of those offenders who had escaped. In addition the Bailies offered two separate rewards of one hundred guineas for the discovery of the murderers of Dugald and James Campbell. John Skelton subsequently stood trial in March 1812 on three separate charges of assault and robbery perpetrated against two gentlemen and a student of divinity. The witnesses in evidence referred to being overwhelmed by a group of between 'forty and fifty lads of no more than twenty years of age each'. Skelton, arrested in possession of two watches stolen from the victims was convicted and sentenced to death on 15 April 1812, but was granted a reprieve in May 1812.<sup>165</sup>

Hugh McIntosh, a sixteen year old porter, and Neil Sutherland, an eighteen year old, were arrested whilst in possession of a trunk full of watches on 6 January 1812 in Glasgow by Edinburgh detective Archibald Campbell. Hugh MacDonald an eighteen year old shoemaker was arrested during February after making his way to Peebles and obtaining

employment there under a false name. It appears from the evidence led that these three accused were members of a local gang based in Niddry Street and that they had conspired with other gangs based in the Canongate and the Grassmarket 'to give the police a licking' thereby removing them from the street in order that the assembled public could be systematically robbed. All the victims spoke of being attacked at various times and locii in the vicinity of the Tron by a gang of about thirty youths. Watchman Dugald Campbell had the nickname 'Royal Arch' and there was some inference that he was particularly targeted because he 'was very hard upon the boys'. Indeed other witnesses heard the gang banter his nickname as assailants severely struck him on the head with sticks and kicked him about the body as he lay on the ground. Whilst the three accused were convicted of robbery only McIntosh was convicted of the murder of the watchman. Nevertheless all were sentenced to death.<sup>166</sup>

Great effort was taken to ensure that the executions should serve as a deterrent to others. Early in the morning of 22 April 1812 a gibbet and scaffold was erected in the High Street, opposite Stamp Office Close only fifty yards from the Tron. About one o'clock the street from the Tolbooth to the scaffold was lined with four hundred Royal Perthshire militia to contain the gathering crowds. Members of the Renfrewshire militia formed a guard round the scaffold. Another two hundred Royal Edinburgh volunteers were positioned nearby in Parliament Close, the 1st Regiment of Edinburgh militia positioned in Hunter Square beside the Tron and a troop of the 6th Dragoon Guards based themselves about half a mile away in Nicolson Street. About half past two o'clock the three prisoners accompanied by a Minister, were walked their short journey in solemn procession with one hundred and fifty special constables escorted each side by the City Guard. After mounting the scaffold the prisoners joined in prayers and the singing of a hymn. At half past three after 'they took a last farewell of each other' the executioner performed his duty 'when they were all three launched into eternity'.<sup>167</sup>

Such was the state of public anxiety about the scale of the disorders that investigations continued to identify other offenders. Although a total of sixty-six persons were taken into custody and reported to the Crown over the months that followed, no proceedings were

taken against twenty. Of the more serious offences, John Darling, John Michie, and John Lauder were arrested on charge of mobbing and rioting a month after the incidents and brought to trial in July 1812. They were clearly regarded as having a lesser role in the disorders for Darling was sentenced to fourteen years banishment from Scotland, and Michie to seven years banishment. The Crown deserted the case against Lauder after he pleaded not guilty. Two other individuals named George Napier and John Grotto who were originally named on the same indictment as MacDonald, McIntosh and Sutherland, were found guilty at a separate trial on other charges of assault and robbery but escaped the gallows by being transported for life.<sup>168</sup>

The organised 'hogmanay' lawlessness stunned the Town Council and General Commissioners and provided the final excuse for amending the 1805 Act. Although no details are provided, when the General Commissioners met on 27 January 1812, they had Superintendant Tait report on how the watchmen had been deployed. Residential Commissioner William Playfair reported on behalf of the General Committee that the establishment funds were such that no additional men could have been employed at the time of the disorders. As a consequence the General Commissioners unanimously resolved that the present system of police was 'inefficient and inadequate to the protection of the persons and property of the inhabitants and therefore the same ought to be altered and amended'. For this purpose yet another a Committee of five Commissioners were appointed to meet with the Town Council and other public bodies to bring forward a new Police Act. With much of the detail for a reformed system of police already agreed in principle, the new Sub-Committee were able to publish almost immediately the proposals for amendments to the 1805 Act. In their published report, the Committee proposed:

- the abolition of the Police Court, with criminal jurisdiction reverting to the Bailies in the city and to the Sheriff Depute outwith their limits;
- the Superintendant be head of the Police and Prosecutor of petty crimes and offences in the public interest, with his appointment vested in the Lord provost, Lord President and Lord Justice Clerk at their pleasure;
- that villages on the periphery of the city should be excluded from the new Act;
- the Wards being too large, should be increased in numbers from six to twenty four;

- there should be three Residential Commissioners in each Ward; and
- instead of eight sets of Commissioners for lighting, cleansing and watching within the bounds of the city, their powers should be consolidated in one body of Commissioners.<sup>169</sup>

As with the 1805 Act, the Edinburgh Merchant Company were amongst the public bodies consulted during the drafting of the 1812 bill. At a hastily convened meeting in April 1812 the members present unanimously approved the new Police bill. The bill proceeded quickly because when the General Commissioners met on 18 May 1812, they agreed to a request by letter from a Mr Cunningham W.S. in London, that all the current Police survey books and cash book kept by the Collector for the last year, be immediately sent to London as they were necessary there for the passing of the new Police bill.<sup>170</sup>

The Edinburgh Police Act 1805 represented a significant change from the past and Patrick Colquhoun appears to have been a principle advisor in the new approach to the enforcement of law and order. Initially, the new Police Commissioners had the unanimous support of all the major (gentry and middle class) interests in the city, including the Town Council, Merchants and Trade Incorporations. By 1807 however, the cost of the new Police regime primarily caused serious division in this consensus, with the merchants in particular seeking to reduce the costs and obtain a cheaper model than existed in Glasgow. Importantly the dispute was over finance and constitutional issues of accountability, and 'political' differences between the ruling groups had yet to emerge. All were agreed in principle on the need to retain the new Police.

Whilst the new Police and the system of police in Edinburgh was subject to a crisis of public confidence through deficiency of revenue and ineffectiveness in the public mind to prevent crime and detect offenders, the new regime of Police in the town of Leith and the continuing system of Parish Constables throughout the rest of the shire, remained relatively unaffected. Indeed the 1806 Act for the town of Leith continued until a new Act was obtained in 1827, and the rest of the Police in the shire remained unreformed until well after 1833.



## Chapter Four - THE NEW POLICE AND SYSTEMS OF POLICE 1812 TO 1822

### BACKGROUND

Between the 1811 and 1821 census, the total population of the shire increased by 28%. The population of Edinburgh increased by 36% and Leith increased by 27%. Over the decade an additional 30,000 persons inhabited the city. The military campaigns in Europe and abroad continued to dominate newspaper attention until 1815 and victory enabled the discharge of 200,000 soldiers back to Britain. Despite the hardships of the period socio-economic activity continued unabated at least in the city, and after 1815 there were signs of a renewed cultural renaissance. The industrial related radical unrest which peaked in 1820 throughout the west of Scotland did not manifest in the metropolis.<sup>1</sup>

Apart from continuous house building extending the New Town and Southern Districts of the city, a second new wet-dock at Leith was completed in 1817.<sup>2</sup> The Union Canal which connected Edinburgh with the Forth and Clyde Canal at Falkirk was commenced in 1818 and completed in 1822.<sup>3</sup> In September 1815 work commenced on Regent Bridge and the new Jail at Calton, and after the transfer of prisoners in September 1817, the old Jail within the Luckenbooths in the High Street, was demolished.<sup>4</sup> Perhaps the most tangible improvement in the city however, was the introduction of gas lighting. Although the Edinburgh Gas Company was incorporated in April 1817, gas lighting was introduced to the South Bridge street and shops in September 1818 and extended as far as Princes Street by January 1822.<sup>5</sup>

After the victory at Waterloo, society appeared to become more celebratory. A periodic Music Festival lasting one week and attracting large numbers of visitors commenced in October 1815.<sup>6</sup> In October 1816, the annual Edinburgh Races normally held on Leith sands, were moved to Musselburgh. An estimated 50,000 spectators attended over six days and dance balls were held in Edinburgh each evening.<sup>7</sup> The annual celebration of the birthday of Burns was constituted on 25 January 1816; and the first edition of the *Scotsman* newspaper was published on 25 January 1817.<sup>8</sup> The cosmopolitan fascinations of Edinburgh attracted a succession of foreign princes.<sup>9</sup>

By 1812, Edinburgh had the foundations of a modern civil Police albeit on a small scale. The new Police comprised a hierarchical command structure of a Superintendant, three Inspectors, fourteen serjeants, six Court constables and at least eighty-eight watchmen. They were paid full time with bureaucratic support and organised to 'guard, patrol and watch' in uniform, so as to prevent crime, detect offenders and maintain public order. The town of Leith had an Intendant of Police, but there was no hierarchical command structure. The Intendant, although personally active in the detection and prosecution of crime and offences before the Leith Bailies, only supervised a Police constable and four Town officers who also had Court duties. Outwith Edinburgh and Leith, the remaining shire was still policed by the traditional Parish Constable system.

Whilst the city had the new Police, clearly more effective in the prevention and detection of crimes and offences, other systems of police still co-existed. In particular, the reduced City Guard functioned solely within the Ancient Royalty and supplemented the new Police by guarding the Tolbooth prison and patrolling the more unruly neighbourhoods at night. After 1805, the new Police initiated the vast majority of summary prosecutions in the constituted Police Court, supplanting the role of the old City Constable system. The City Constables continued on a voluntary basis, with three year tenure periods. However, their role was restricted to that of 'special' constable, being called out by the Lord Provost or Bailies in an emergency to help quell a riot, or supplement the new Police when there were large assemblies of people, like public executions or other ceremonial occasions.

Despite the deficient collection of assessments made under the 1805 Act, which became progressively worse each year to the extent that a significant reduction was made to the strength of the Force in 1807, there is no evidence to suggest that the new Police were not required. Minutes of the Commissioners and indeed local newspapers proposed further consolidation of the system of police in the city and only amendment to the functional role of the Superintendant. In the absence of contrary evidence, it must be concluded that the new Police were believed to be necessary despite the concerns expressed about costs. Although the main underlying cause for dissatisfaction with the new Police was the judicial

role of the Superintendent, it was the 'hogmanay riots' which finally created the excuse to amend the perceived defects of the 1805 Act for the city.

The alarm caused to the Town Council by the hogmanay riots can be judged by the special measures taken to strengthen street patrols to assist the new Police until a new Act was obtained. An advertised notice to the public in January 1812, sought resident householders who were willing to temporarily contribute their services in patrolling the streets, to enrol their names at the Council Chambers. The plea for assistance was unsuccessful, for a week later another advertisement sought a 'Night Patrol' of fifty men, in addition to the Police, to assemble at eight o'clock each evening for which they would receive 2/- payment per night.<sup>10</sup>

## **THE 1812 ACT FOR REGULATING THE POLICE OF THE CITY OF EDINBURGH**

The 1812 Act obtained Royal Assent on 20 June 1812 but did not come into effect until Monday 6 July 1812. Repeating the purpose of the earlier statutes, its main object was to establish a single body of General Commissioners who would have overall responsibility for lighting, cleansing and watching services. Thus the 1812 Act with one hundred sections, essentially consolidated these services under the same administrative regime, but also made important changes to the functional role of the Superintendent.<sup>11</sup>

Excluding Portobello, the territorial jurisdiction of the 1812 Act was slightly greater than the 1805 Act. By drawing the new boundary around the tollbars surrounding the city, it ensured that all developments during the previous seven years were included. The rapid growth of building can be gauged by the special arrangements made for property in that part of Leith Walk between Pilrig Street and the foot of Leith Walk. Whereas under the 1805 Act, Pilrig Street formed a boundary for the city and the foot of Leith Walk about one quarter of mile northwards, formed a boundary point for the town of Leith. The proprietors of the new properties between both jurisdictions were given three months to decide by a majority voting system, to elect under which establishment they wished to be policed. For administrative and operational purposes the territorial jurisdiction under the 1812 Act was divided into twenty six Wards, each with a territorial area much smaller than that of the six

Ward division under the 1805 Act. Thus in 1805 the 'Royal Mile' between the Castle and the Palace of Holyroodhouse incorporated Castlehill, Lawnmarket and High Street in Ward 1 and Canongate in Ward 4, but in the 1812 Act these four streets became parts of Wards 2, 3, 4, 16 and 17. Moreover the eight Southern Districts which were divided between Wards 5 and 6 in 1805 each became a separate Ward (i.e. 18 to 25).<sup>12</sup>

The 1812 Act continued the measures introduced in 1805 which enabled specific regulations to be made for the purpose of increasing the general safety and well-being of the inhabitants, and also added a few more. Bailies continued with specific powers for regulating the licensing of hackney coaches, landaus, chariots, or other carriages for hire, for the weighing of coals brought into the city, and for the weight of straw and hay sold in the city. They also maintained the general power 'to make such future Regulations, and such Orders, Rules, and Bye-laws, as may be necessary for the more effectual enforcement of the Act in respect to cleansing, lighting and nuisances in the Street'.<sup>13</sup>

The 1812 Act did not re-enact the harsh 'whipping' punishment for vagrancy and common begging found in the 1805 Act. Vagrants and common beggars could still be apprehended without warrant and brought before the Bailies or the Sheriff Depute for examination. If a person so apprehended did not belong to any parish within the limits of the 1812 Act, they could be ordered to leave the city, but if the person belonged to the city, then they could be sent to the appropriate Charity Workhouse. Having been so directed, if the person after the expiration of forty eight hours, was again found as a vagrant or common beggar at large, he or she could be committed to the Bridewell for up to sixty days. A new offence was created for any person knowingly harbouring 'any Idler, Rogue or Vagabond, in any house or out-house' without giving notice thereof to a constable or other Police officer.<sup>14</sup>

Unlike the 1805 Act, the 1812 Act did not grant power to the Bailies to make regulations regarding the weight of bread baked in or brought into the city for sale. However, it did attempt for the first time to prevent the 'Keepers of Tippling Houses' allowing riotous and disorderly persons to remain upon the premises. The Bailies as Justices of the Peace already had the power to grant a licence to any person wishing to sell ale or spirituous liquor in their premises but the licence which was issued yearly as a means of revenue,

was not subject to any form of external supervision. The new provision empowered the Bailies or Sheriff Depute:

To require all Persons keeping Tippling Houses, or Houses resorted to by riotous or disorderly People, to find Security for his, her, or their good Behaviour, for such Length of Time and to such Extent, not being less than Ten Pounds, and not exceeding Fifty Pounds, as they shall judge proper.

In the event of such security not being found within a reasonable time, the licence could be revoked and the offence of selling ale or spirituous liquor while not being duly licensed was subject to a fine not exceeding £10.<sup>15</sup>

Another activity which was subject to supervision for the first time under the 1812 Act, was in relation to 'brokers' who bought, sold or took in pawn, second hand goods or metals. Pawn-brokers were already subject to legislation under an 1800 Act, but all brokers were now required to keep books in which description of any property purchased or received in pawn had to be entered, and such property at all reasonable times had to be produced on the demand of a police officer. It was an offence subject to a £5 fine, for brokers to fail to show their books or property received, on the demand of a constable.<sup>16</sup>

Other measures continued in the 1812 Act included the need to have houses and shops numbered and streets named and any openings in the street footway properly fenced and lighted.<sup>17</sup> However the 1812 Act also introduced new provisions to prevent nuisances and dangers to the inhabitants. Bailies and the Sheriff Depute now had power to order the removal of signs projecting over the footways or streets, and to prevent obstructions to pedestrians by the placing of goods for sale on the footway or street.<sup>18</sup> The proprietors of houses and other buildings were now required subject to the direction of the Dean of Guild to lay sufficient stone footways between their property and the public Street.<sup>19</sup> Incorporating the terms of the Traffic Regulation (Scotland) Act, 1772 it continued to be an offence to draw without cause, wheeled waggons or carts on the footways, to wilfully ride or drive animals on the footways, or to ride horses or drive any carts, or carriages in a 'furious or improper' manner.<sup>20</sup> The 1812 Act was also deemed to be public, and to continue in force for the period of ten years.<sup>21</sup>

## COMMISSIONERS OF POLICE

The two-tier partnership of General and Residential Commissioners continued under the 1812 Act, with the General Commissioners responsible for bringing the Act into execution and essentially for making major policy decisions, and three Residential Commissioners in each Ward responsible for ensuring implementation of those policies. More authority was vested in the General Commissioners because the other various district Commissioners, appointed annually under the Acts of 11, 12 and 25 George III in relation to lighting and cleansing in certain parts of the city, now ceased to co-exist. Indeed the new General Commissioners had to inherit any funds or discharge any debts attaching to these other local Commissioners.<sup>22</sup>

At the same time the legal framework of the partnership was significantly altered and this resulted in a shift of power in favour of the elected Residential Commissioners. Compared to the 1805 Act, the range of non-elected persons declared General Commissioners under the 1812 Act was greatly reduced. The Town Council was only represented by the Lord Provost, the 1st Bailie and the Dean of Guild, and with the exception of the Sheriff Depute and his two Substitutes, the other non-elected but prominent political, legal, academic and commercial figures in the city were excluded. Finally the three Residential Commissioners in each Ward nominated one of their number to be a General Commissioner.<sup>23</sup>

Most of the duties and powers of the General Commissioners were preserved in the 1812 Act. Specifically they were empowered to impose assessment, collect rates and appoint collectors and other officials for this purpose.<sup>24</sup> Generally they had authority to continue, amend or establish such further regulations and bye-laws as was necessary for implementing the 1812 Act.<sup>25</sup> They could determine the number of watchmen and other inferior officers of police to be appointed as well as their wages and the salary of the Superintendant. Significantly however, the power to nominate and appoint the Superintendant of Police was removed from them and vested collectively with the Lord Provost, the Lord President and the Sheriff Depute, with the proviso that they, or any two of them, could remove him 'at their pleasure'.<sup>26</sup>

The 1812 Act not only increased the number of Wards in the city from six to twenty six, but also reduced the number of Residential Commissioners from seven to three in each Ward. The net effect however was that the total number of Residential Commissioners increased from forty two under the 1805 Act to seventy eight. To bring the 1812 Act into execution, three Residential Commissioners were named for each Ward. Of those listed, forty three were either merchants or connected with business interests in the city, twenty belonged to the legal profession and three to the medical profession. As regards the rest, one was a minister and three appeared to have a military or naval background, but the remainder were gentlemen named without any specific occupation.<sup>27</sup>

The same section of the 1812 Act that named the new Residential Commissioners also enhanced their role. In addition to their purely administrative duties established in 1805 they were invested with the powers of constable. In what was a clear vestige from the past, Residential Commissioners were also deemed to be 'Head Constables' within their respective Wards. With these new powers, Residential Commissioners were required to 'take all Measures necessary for promoting the general Peace, Order, and Comfort of the Inhabitants of the respective Wards'. Although some Residential Commissioners happened to be enrolled City Constables, there is no evidence to suggest that the Society of High Constables promoted this change and linkage with the past.

To enable continuity of experience in future there was a provision for the annual election of the Residential Commissioner, named highest on the list of three for each Ward, commencing in July 1813.<sup>28</sup> The franchise under the 1812 Act remained basically the same and was applied uniformly to those occupiers of dwelling houses, shops, warehouses or other buildings, valued at £10 sterling or upwards of yearly rent, dropping the free rent formula under the 1805 Act.<sup>29</sup> However the property qualification for the post of Residential Commissioner shifted from a residence valued at £20 or upwards of free rent and was far more elaborate. For example, in those Wards where fifteen or more dwelling houses had a value of £30 or upwards of yearly rent, the Residential Commissioner was obliged to belong to that class of occupier. In Wards not meeting this criteria, the yearly rent threshold was progressively lowered to £25, £20, £15 and finally £10 until at least fifteen householders met the criteria in the respective thresholds. In each case the person

standing for election as a Residential Commissioner, had to qualify as being in the class of at least fifteen persons within the threshold. The Magistrates of Canongate, and Easter and Wester Portsburgh continued to be eligible for election as Residential Commissioners without regard to their yearly rent as occupiers.<sup>30</sup>

The procedure for advertising elections and submitting votes under the 1812 Act, was conducted in much the same manner as under the 1805 Act, but scrutiny of the system including counting was transferred from the Residential Commissioners to the General Commissioners. The principle of 'one person one vote' continued to apply and indeed it was an offence subject to a £5 fine for a person to vote or attempt to vote at an election, without holding the requisite property qualification. Moreover, the simple majority system of electing a candidate continued under the 1812 Act, but in the event of an equality of votes, the General Commissioners presiding could determine which candidate was to be preferred.<sup>31</sup>

Similar but more elaborate safeguards were provided in 1812 to ensure the election and functioning of the Residential Commissioner. In the event of an elected Residential Commissioner refusing to act, the penalty was still a fine equal to treble his assessment for tax. Again should a Residential Commissioner die, resign or cease to reside within the Ward for which he was elected, within fourteen days of such a vacancy arising the General Commissioners were required to intimate the date of the election, and hold the election not more than four days after such intimation. In case the electors in any Ward refused or neglected to elect a Residential Commissioner, it was lawful for the General Commissioners to nominate and appoint a substitute, providing he held the necessary property qualification.<sup>32</sup>

When the General Commissioners became responsible for supervising the election of Residential Commissioners, detailed election results began to be recorded in their minute books but the practice only continued until 1819. Figure 4A relates to the annual election of the highest listed Residential Commissioner for each Ward, held each July from 1813 to 1819 and shows the total number of votes cast in each Ward.



**Figure 4A - Annual Election of Residential Commissioners**  
**Total Number of Votes Cast In Each Ward**

Ward	1813	1814	1815	1816	1817	1818	1819
1		19	29 (29)	14 (14)		10 (10)	19 (19)
2	3	4 (4)		8 (5)	32	2	29
3							103 (103)
4	2 (2)	7		33 (33)	189 (53)	127	116
5	1	26	10 (2)	8	11	23 (12)	108 (24)
6							
7		? (?)			21 (7)	39	26 (26)
8	1	1				1 (1)	16 (14)
9							48 (17)
10	2 (2)						
11						80	51 (39)
12				13 (13)			
13	? (?)	? (?)	28 (8)	39	9 (2)	55 (55)	79 (78)
14					14 (2)	46 (17)	37
15	1 (?)	36	15	10	48 (8)	237 (102)	525 (82)
16	? (?)	63			29 (16)	6 (6)	25 (25)
17	? (?)		21		8		
18		2			4	1 (1)	
19			19 (9)	10	39 (31)	9	
20		1 (1)	4 (4)		4		
21	1	34	3	11	66 (10)	35 (33)	94 (94)
22			6	11 (4)	89 (68)	56 (23)	9 (9)
23	? (?)	9	14 (1)	12	19 (2)	7 (1)	6 (6)
24					7 (1)	40 (10)	11 (8)
25	?	15 (15)		16	41 (1)	33	9
26	? (?)	2 (2)		16	34	16 (16)	8 (8)

Source: E. P. Minute Book (1813 - 1819) pp56 - 63 for 1813; pp98 - 111 for 1814; ppl43 - 147 for 1815; ppl92 - 198 for 1816; pp271 - 277 for 1817; pp330 - 337 for 1818; pp394 - 401 for 1819.

A blank space means that no votes were cast against that Ward, a ? mark means that votes were in fact cast but the numbers counted are not recorded, and the figure in brackets shows the number of votes not conforming with the statute (i.e. spoilt).

Figure 5A herein shows that by 1820 there were almost 9,000 residents within the £10 franchise.

The electoral picture which emerges is a mix of apathy and confusion with the system of voting. Bearing in mind that the potential electorate in each Ward ought to have increased marginally each year as new houses and premises were built, no satisfactory explanation can be given as to the high variance in the number of votes cast in most Wards over the years mentioned. There is no obvious reason why those Wards which eventually recorded a relatively high number of votes cast, did not exercise the franchise in at least the same numbers, in previous or subsequent years during the period covered.

Although less than nine thousand inhabitants in the city qualified on the £10 rental franchise, by 1813, some seven years after the voting system was introduced, votes were only cast in half the Wards. Moreover the apathy cannot be explained in terms of class opposition to the system, because Ward 6 which had Cowgate and probably the poorer classes in the city, did not return any votes over the period 1813 - 1819, and Wards 8, 9, 10 and 11 which covered the New Town area with the richer classes in the city, did not

return an appreciable number of votes over the same period. From these returns it could be concluded that the electorate in these areas, and indeed in other Wards were reasonably satisfied with the original Residential Commissioners named and were content to leave their subsequent replacements to the General Commissioners. Nevertheless the confusion which persisted in the system of voting is much easier to discern, and it appears to have been rife. The 1813 election shows that in eight of the thirteen Wards which did return votes, the total (albeit unknown) numbers of votes cast did not 'conform to statute' and were therefore disregarded. Even in 1818 and 1819 when more of the electorate exercised their franchise, a considerable proportion of those votes cast were invalid for a variety of reasons.

The state of confusion in the electorate can also be judged from some of the returns referred to. For example, in July 1814, Ward 3 returned four votes for Alexander Smellie, printer but they were invalid because he no longer resided in that Ward. Ward 16 returned forty-one votes for David Littlejohn, a baker, but as he did not possess the requisite property qualification, the votes were invalid and Alex Boag, a cutler who obtained twenty-two votes was duly elected. Ward 25 returned fifteen votes for one person but since they were on one piece of paper signed by fifteen inhabitants, they were declared invalid. In July 1817, Ward 22 returned sixty votes for James Brown but they were invalid because he was an existing Commissioner in the Ward and the twenty-nine votes for a John Hay secured his election. In July 1818, Ward 13 returned thirty-five votes for Samuel Wordsworth and twenty votes for Andrew Wood but all were unsigned and therefore invalid. Indeed most of the 'wasted' votes noted in Figure 4A arose for the same reasons outlined, and sometimes such votes, invalid on a technicality, caused the defeat of the more popular candidate.

Despite the confusion in the electorate, the General Commissioners ensured that a sufficient number of Residential Commissioners were appointed in each Ward in order that the partnership arrangement under the 1812 Act would survive. There was a ray of hope that the democratic system of voting would develop. The highest number of votes returned by a Ward occurred in July 1819 when Ward 15 returned 223 votes (+10 invalid) for William Henry Brown, a merchant of Union Street, 180 votes (+71 invalid) for George Black of Greenside Place, and 40 votes (+1 invalid) for William Mowbray, of Leith Walk.

The advantages or benefits derived from the 'Head Constable' role for Residential Commissioners are difficult to assess. Like the City Constables, the General and Residential Commissioners were issued with batons signifying the authority of their office.<sup>33</sup> However as most had merchant or trade occupations, it could be argued that their value in preventing or detecting crimes and offences must have been minimal. By virtue of their office they could give direct instructions to Police officers, but there is no evidence to suggest that they actively became involved in police work, or interfered with the instructions of the Superintendant. Although under the 1805 Act the Residential Commissioners had the power to appoint police officers in the numbers determined by the General Commissioners, this power was removed from them in 1812 and vested in the Superintendant. Indeed the 1812 Act left the Residential Commissioners with the power to appoint the scavengers only.<sup>34</sup> Against this overall reduction in administrative power, it is not unreasonable to conclude that the 'Head Constable' role was titular, a quid pro quo designed to enhance the status of the Residential Commissioners.

That the real influence of the Residential Commissioners in relation to the General Commissioners declined under the 1812 Act, is also evidenced by the fact that there is much less reference to their efforts in the minute books of the General Commissioners. Under the 1805 Act the Residential Commissioners in each of the six Wards produced monthly reports on the state of 'policing' (i.e. watching, lighting and cleansing) and these were often detailed and acted upon. Although no statutory meetings were prescribed for Residential Commissioners in the 1812 Act, they continued to meet twice yearly, usually in April and October, and the majority produced reports for the attention of the General Commissioners.<sup>35</sup> The early reports from the Residential Commissioners about the state of their Wards appear to have lacked coherence. At a meeting in January 1813, Sheriff Depute Rae submitted that it was 'highly expedient' to have uniform reports from Residential Commissioners under the heads of 'I Watching, II Lighting, III Cleansing and IV General Remarks' and this format was agreed and intimated to all concerned.<sup>36</sup>

Only occasionally were the ideas of the Residential Commissioners taken on board by the General Commissioners. Thus in October 1816, after considering a petition from the

Residential Commissioners in Ward 15, which complained of the inconvenience to householders residing near the foot of Leith Walk who often suffered 'petty depredations' on their outhouses, having to convey culprits to Edinburgh, the General Commissioners agreed that a watchhouse was necessary halfway between Pilrig Street and the foot of Leith Walk.<sup>37</sup> Again at a meeting in August 1819, after considering a petition from the Residential Commissioners in Wards 1 and 26, which complained of the cruelty to animals by carriers and carters bringing overloaded carts to the Grassmarket, with animals often beaten before slaughter by fleshers, the General Commissioners agreed that at least two police officers should attend every Tuesday and Wednesday morning in the Grassmarket to prevent the cruelty.<sup>38</sup> The fact was however, that individual house and shop occupiers often by-passed Residential Commissioners and submitted letters containing particular grievances direct to General Commissioners. It appears therefore that the only advantage of being a Residential Commissioner was that it provided a route to becoming a more influential General Commissioner.

As regards the General Commissioners, a range of provisions under the 1812 Act, regulated their meetings and formalities. They were obliged to hold four quarterly or 'statutory' meetings on the first Monday in the months of January, April, July and October each year, within the Council Chambers or other convenient place, which usually was either Parliament House or the Main Police Office. However, the General Commissioners could hold any other meetings they deemed necessary and no quorum was laid down. In addition there was a new procedure whereby at the request of any four General Commissioners, the Lord Provost or the Sheriff Depute was obliged to call a special meeting within forty eight hours and to hold that meeting within four days thereafter. The only restriction applied to special meetings was that no rules or regulations adopted could alter or annul those rules or regulations framed at any of the quarterly meetings. As under the 1805 Act, both Residential and General Commissioners attending any meeting, had to defray their own expenses.<sup>39</sup>

In furtherance of establishing their legal entity it was enacted that General Commissioners could sue or be sued for anything done or ordered by them, by virtue of the 1812 Act, 'in the name of their Clerk for the time being'. General Commissioners were therefore obliged

to keep books showing 'an Account of what Monies have been levied and paid' and 'in what manner the same have been applied'. These had to be balanced in June yearly . They were also required to keep books showing 'engrossed or written Minutes of all Transactions with the Amount of the Salaries and their emoluments paid to the Superintendant of Police, and also to the Clerks, Servants, Collectors, and other Officers'. More importantly all these books were open to inspection without fee at reasonable times to any person subject to assessments.<sup>40</sup>

In accordance with the Act, the General Commissioners met at twelve o'clock on 6 July 1812 within the Council Chambers. They undertook their responsibilities seriously and with vigour and thereafter met on ten consecutive Mondays into September and a total of fifteen times before the end of 1812 to ensure that transitional arrangements brought the new Act into execution. Indeed the General Commissioners met on one hundred and fifty occasions during the ten year life span of the 1812 Act. Apart from the quarterly meetings required by statute, the vast majority of the other general meetings were convened to progress ordinary business arising and several could be considered marathon sessions. Meetings were adjourned on three occasions due to lack of attendance. It was the practice to convene a separate meeting each July to declare the outcome of elections and name all the Residential Commissioners. Special meetings were more rarely called and the procedure was invoked only after serious disturbances in 1815 and during the crisis which developed in 1820 over the lack of confidence in the Superintendant.<sup>41</sup>

Initially the business of the General Commissioners proceeded in much the same manner as under the 1805 Act, in a structure burdened by the prolific appointments of ad hoc committees. For example at meetings in July and August 1812, the General Commissioners appointed committees to consider inter alia, the effect of the new proposals for common begging, the drafting of regulations for the drawing and paying of money, and the revision of lighting and cleansing regulations.<sup>42</sup> But whereas the majority of problems arising under the 1805 Act, requiring some policy decision, were usually referred to ad hoc Committees, this continued to a lesser extent under the 1812 Act because of the gradual emergence of more effective and efficient standing committees.

Due to increasing business, the General Commissioners in July 1812 broke with the practice of appointing only a standing General Committee and instead appointed Committees on finance, cleansing and lighting.<sup>43</sup> These three committees reported back to meetings of the General Commissioners for more than a year. This structure was further refined in November 1813, when Standing Committees for I Accounts, II Finance, III Appeals, IV Lighting and V General Purposes, were unanimously agreed. However the inadequacy in the range of these standing committees was soon realised for in January 1814, the General Commissioners accepted the motion of Sheriff Depute Rae to rationalise and establish Standing Committees for I Accounts and Finance, II Watching and General Purpose, III Cleansing, IV Lighting and V Bye-laws.<sup>44</sup> Thus the structure for the more professional management of business was fundamentally set, with only the Appeals Committee reconstituted in July 1814 (replacing the Bye-laws committee) and a Law Committee added in 1820.<sup>45</sup>

The shift in the balance of power from non-elected to elected General Commissioners is apparent in the meetings recorded in their minute books. The provision in the 1812 Act that one Residential Commissioner in each Ward would also be a General Commissioner, only changed the elected -v- non-elected ratio in the total body from 42:26 under the 1805 Act (i.e. less than 2 to 1), to 26:6 under the 1812 Act (i.e. almost 4 to 1). However the outcome of having a much reduced non-elected group of General Commissioners was that their ascendancy and influence which they often took for granted was significantly eroded. Gradually a large proportion of the elected General Commissioners with Whig tendencies more readily opposed the Tory views of the Lord Provost and Sheriff Depute, and such opposition in the local government arena which is explained later was altogether unprecedented.

## **THE SUPERINTENDANT AND THE NEW LIEUTENANTS OF POLICE**

The principle change to the new Police under the 1812 Act, was that the Superintendent of Police no longer undertook judicial functions, but instead became public prosecutor for summary cases before the Bailies as Magistrates. Although no instruction is minuted, the resignation of Superintendent Tait took place on Monday 6 July 1812, with a valediction

which was reported verbatim in the newspapers. In his account Superintendent Tait lamented:

I am now to close this court, after having officiated in it for nearly seven years of unabating solicitude, *during which above twelve thousand cases have been determined*, as appears from the volumes on the table, containing abstracts of the judicial procedure. I was placed here in consequence of an act of Parliament, of an experimental nature. The experiment has been made, several defects have been discovered, and these have been obviated by a new act, which makes great additions to *the means of preventing offences, and of detecting offenders*, from which the most beneficial effects may be permitted to repeat a remark made by the highest authority in this place, and which cannot be too strongly enforced, *that no institution of police can be effectual without the cordial support of the community.* (italics added)

Tait then warned about the declining moral standards of the young, and after intimating his intention to return to the legal profession, he expressed his thanks to the Clerk, the Inspectors and other Police officers for the assistance they rendered. He ended on the pique point that:

They have had troublesome duties to perform; and I trust, that when the difficulties inseparable from a new institution, *the smallness of the number of men employed, the want of a fund to procure information*, are considered, great allowances will be made for us all. (italics added)<sup>46</sup>

As regards the 'volumes' referred to by Superintendent Tait, it has already been mentioned that only one book detailing prosecutions between 1805 and 1807 has survived. The most important change introduced by the new Police was in the number of summary prosecutions. Over the period 1805 to 1812 in excess of 12,000 prosecutions were hitherto unprecedented in terms of the numbers previously prosecuted. It illustrated the determination to impose a new civil order by tackling the perceived social problems of the time which included 'welfare' type offences as well as crimes against persons and property. Importantly revealed is the enlightening attitude of Superintendent Tait that the Police were primarily 'preventive' and that they required the support of the public. The undermanning

was recognised and rectified by the new General Commissioners, but the 'fund to procure information' was not adequately established to elicit the type of information required, and this eventually caused problems for the next Superintendant.

Record of any dissatisfaction with Superintendant Tait appointed under the 1805 Act, or detail of any negotiation to remove him from office, are conspicuously absent in the minute books of the General Commissioners. A specific arrangement was made under the 1812 Act for the payment of £300 annually to him as compensation for loss of office and this commenced in October 1812 and lasted until his death in 1819. However the new General Commissioners had little sympathy for Tait after his departure from office. When a memorial from Tait requesting recompense also of the income tax due on the annual compensation, was read to the meeting of the General Commissioners in June 1813, it was unanimously refused.<sup>47</sup> Superintendant Tait was so unpopular that Cockburn observed that 'even our Rulers admitted he was intolerable; and this was the happiest event of his life, for he got £300 a year for getting out of the way.'<sup>48</sup>

Under the 1812 Act, the Superintendant was no longer Judge in the Police Court constituted in 1805. Although the Court continued to function, its criminal jurisdiction reverted to the Bailies who rotated monthly the duty of Judge. The Superintendant became public prosecutor of summary cases and to this end he was declared a Procurator Fiscal to bring actions, to enforce the punishments, and to recover the penalties made thereunder.<sup>49</sup> As under the 1805 Act, the Superintendant was appointed Principal Billet Master, but in addition he was also required to 'take a General Charge, Superintendence, and Control of all the Scavengers'.<sup>50</sup>

At their first meeting on 6 July 1812, the General Commissioners resolved inter alia that the salary of the new full time Superintendant would be reduced to £250 per annum plus any property tax due. Although not minuted at the time, it is clear that Inspector Brooks, who was originally appointed for Ward 6 under the 1805 Act and who was one of three Inspectors remaining after the major review in February 1807, was temporarily placed in charge and acted as Superintendant from 10 July until the appointment of the new Superintendant on 10 August 1812.<sup>51</sup> However at their fifth meeting on 3 August 1812 the



Lord Provost reported that he found it impossible to procure a Superintendent 'of respectability and properly qualified for office,' but that he had an individual recommended, who would only accept the office at a salary of £500 per year. After discussion of the pleas of the Lord Provost, the General Commissioners finally agreed after discussion to a motion allowing £500 per annum to the new Superintendent, but reserving the right to lower it on his death, resignation or removal.<sup>52</sup>

At their next meeting on 10 August 1812 although chaired by the Lord Provost, it was Sheriff Depute Rae who introduced James Brown as the new Superintendent, describing his previous designation as Lieutenant in the Army and a late Captain and Adjutant in the Perthshire Regiment of militia. At the same meeting the General Commissioners resolved that the Superintendent who was to receive £500 per annum, could be assisted by three 'subaltern' officers, each with salary of £80 per annum.<sup>53</sup> The minutes do not record who proposed the idea of having 'subaltern' officers, but from the military connotation there is good reason to conclude that Superintendent Brown himself introduced the term to the meeting. Again the circumstances may have determined the decision, first of all because the 1812 Act did not make specific provisions for the appointment of Inspectors, although three were existing under the 1805 Act, and secondly the necessity to have a rank between the Superintendent and the serjeants was compelling enough to create the impetus for an alternative title. Nevertheless the decision had important consequences because the outcome was that Superintendent Brown appointed three officers to the rank of 'Lieutenant' and with the lack of minuted discussion, it can only be surmised that the General Commissioners acquiesced in his actions. Like the rank of Superintendent the rank of lieutenant was also adopted later by other police forces in Scotland.<sup>54</sup>

The minute books of the General Commissioners provide no detail about the appointments of the lieutenants although their names are later mentioned indirectly. However it is clear that three lieutenants were appointed fairly quickly because at their meeting on 17 August 1812 the General Commissioners resolved that 'the Inspectors under the old system be paid their salaries until Martinmas next'.<sup>55</sup> In all probability the three existing Inspectors were designated lieutenants for reference was made to their role at a meeting on 27 October 1812. Superintendent Brown was found to be daily engaged during the forenoon

at Court, and it was thought that this was to the detriment of other duties. The view of the meeting was:

That from the experience which the lieutenants of Police now had, they with the assistance of the Clerk ought now to be capable of conducting ordinary business before the Courts,

and a minute to the effect that the lieutenants could assist with prosecutions was sent to the Bailies and the Sheriff Depute.<sup>56</sup>

The Lieutenants of Police were not referred to again until a report by the Watching Committee was considered at a meeting of the General Commissioners in November 1818. All agreed that the senior lieutenant named Bremner, who had held his position for three years, ought to receive £100 per annum because of the extra duties involved in deputising for the Superintendent.<sup>57</sup> However by January 1819, the same Watching Committee reported that the addition of one lieutenant had become 'indispensably necessary' and based their view on the rise in the number of cases prosecuted annually in the Police Court. The Watching Committee revealed that the practice between 1812 and 1818 was to have three lieutenants, 'one of whom should come on duty each day in succession and remain ready at a call during the night.' This shift rota for the lieutenants had worked reasonably well but as the number of cases prosecuted in the Police Court 'augmented annually from 2,820 to 5,807' it was no longer possible for the duty lieutenant to retire for rest during any part of the night. Since the circumstances had affected the health of the lieutenants, the appointment of a fourth lieutenant with a salary of £80 per annum was accepted. With the view to maintaining a proper degree of subordination, it was also agreed that 'Bremner the senior Lieutenant should in practice be designated Captain Lieutenant'.<sup>58</sup>

Thereafter Lieutenant Bremner came to notice more often, in a saga which brought both himself and his rank into disrepute. The events are set against an enquiry into the actions of the Superintendent himself, which will be explained later, but the enquiry into Bremner's behaviour began when the Committee on Receipt and Expenditure called a special meeting in May 1820. This ad hoc Committee had examined receipts and expenditure for previous financial years after suspicion of fraud had fallen upon the Clerk of Police, John Murray.

Specifically they sought to verify receipts for £10 in respect of money handed over to the widow of a deceased Lieutenant Hume and for £20 in respect of money handed over to the widow of a deceased Lieutenant Bogue. They suspected that only £10 had been handed over to each widow by Lieutenant Bremner. Members of the Committee alleged that Bremner had prevaricated on several occasions to them and was deceitful. After much discussion however, the Committee reported back in June 1820 that 'there was insufficient evidence that Mrs Bogue did not receive the whole £20,' but submitted that Bremner deserved the 'highest censure' for his conduct.<sup>59</sup>

Lieutenant Bremner may have eluded dismissal because most attention still focused on the enquiry into the actions of Superintendent Brown, but his conduct was not forgotten. Three months later at a meeting in October 1820 Residential Commissioner Allan, who was a member of the Watching Committee but also chairman of the previous Committee on Receipts and Expenditure moved that the office of Captain Lieutenant should be abolished. Sheriff Depute Duff opposed the motion and a lengthy debate ensued. According to Allan, the main reason for the motion was the failure of Captain Lieutenant Bremner to work night shift to assist the other three lieutenants, even when one of them named Dirom had been off sick. Sheriff Depute Duff based his opposition on the current Court work load of Superintendent Brown which necessitated a principal lieutenant deputising for him. In addition the Superintendent was expected to investigate crimes reported, trace delinquents, prepare for cases going to trial, and attend Committees to give advice and assistance. With the interest of the Bailies in mind, Sheriff Depute Duff submitted that under such circumstances, 'retaining a Captain Lieutenant would assist in preventing interruptions to the business of the Police Court' and also be more beneficial to the public. The motion to abolish the rank of Captain Lieutenant was finally put to a vote and was passed nineteen votes to sixteen. Having lost his case Sheriff Depute Duff managed to secure another motion that the salary of Captain Lieutenant Bremner be continued another five weeks until Martinmas 1820.<sup>60</sup>

Although the views of the Lord Provost and Sheriff Depute had been more regularly challenged by the elected General Commissioners after the introduction of the 1812 Act, this episode marked the first occasion of a powerful non-elected member being overruled.

However the strategy of Sheriff Depute Duff was to delay the abolition decision to give him time to present a more compelling case for retaining the position of Captain Lieutenant. Another special meeting was held on 24 October 1820 before which Sheriff Depute Duff submitted a five page document entitled 'Reasons of Protest against the Resolution for abolishing the office of Captain Lieutenant' signed by himself and thirteen other General Commissioners. The document provides a detailed insight to the work of the Superintendant and his lieutenants. The signatories restated the case that :

The Superintendant as Fiscal has to attend the Police Court upwards of four hours on Mondays, Thursdays and Saturdays; and upwards of two hours on the other days of the week: and his time (when the Police Court is not sitting) is much occupied in investigating into complaints and offences; in preparing some of these Cases for trial in the Police Court; and in tracing out the delinquents, and obtaining proper evidence in other cases, preparatory to the commencement of a regular precognition.

They objected to abolishing the office of Captain Lieutenant, because it appeared impossible for the Superintendant both to attend the Police Court and to attend to all the other responsibilities outlined. Abolishing the rank would save only £120 a year but at the same time subject the business of the Police Court to frequent interruptions in consequence of the Superintendant being called out of Court to give advice in the various matters constantly occurring. Retaining the Captain Lieutenant would therefore ensure that:

A person completely qualified would always be at hand to give the necessary orders, without occasioning any interruptions to the regular business of the Police Court; as either the Superintendant or Captain Lieutenant could attend the Police Court, while the other would be in the office in readiness, to give all the necessary information upon the various matters that might occur; to wait on Police Committees; to receive all complaints which might be lodged between ten and three in the day, and six and nine in the evening, and to give such directions in these complaints as might be required.<sup>61</sup>

The 'Reasons for Protest' acknowledged that the fourth lieutenant had been added to the establishment chiefly on account of night duty bearing hard on the three lieutenants. However it was pointed out that in consequence of not working night shift, the Captain

Lieutenant took a greater share of investigations and therefore not only relieved the other three lieutenants proportionally, but had become more expert in such investigations and acquired a knowledge of the different suspicious characters within the bounds of the city. In fact the development of expertise in criminal investigations by the Captain Lieutenant was the origin of what was to become a specialist role within the new Police.

The 'Reasons for Protest' were brought before the special meeting on 24 October 1820, but further consideration on the subject was deferred until the next meeting one week later. On 31 October 1820 the General Commissioners received a report from Superintendent Brown which intimated that he had on 26 October 1820 dismissed Lieutenants Bremner and Wilkie for some irregularity of conduct and because no explanation for the dismissals was given, the matter was remitted to the Watching Committee.<sup>62</sup> Events appear to have mitigated the case for abolishing the rank of Captain Lieutenant, for no further discussion on the 'Reasons for Protest' is minuted, and the rank, if not the person, survived.

The report of the Watching Committee enquiry into the dismissal of Lieutenants Bremner and Wilkie was considered by the General Commissioners in January 1821.<sup>63</sup> The General Commissioners firmly established the constitutional principle that the Superintendent was accountable to the Watching Committee. When called before the Watching Committee, the Superintendent, represented by counsel, had initially refused to give reasons for the dismissals. The legal counsel took the view that disclosure would not only be 'injurious and painful' to the officers concerned, but because the 1812 Act gave the Superintendent 'exclusive responsibility for the whole officers under him,' and 'the uncontrolled right of naming and removing all such officers at his pleasure without assigning any reasons or being answerable to any quarter'. However the Watching Committee believed it their duty at all times to enquire into the existence of any abuses in the establishment and this view was upheld by the General Commissioners.

Nonetheless on being informed that he could be present during the examination of witnesses by the Watching Committee, and ask questions, the Superintendent conceded and gave his account of the dismissals. Apparently on Friday 20 October 1820, Lieutenant Wilkie had gone to a tavern accompanied by Bremner his superior officer and remained

there for two hours. Thereafter they went to another public house in Calton and remained there until two or three o'clock in the morning where other misdemeanours were alleged but not detailed. Lieutenant Young, who presumably had been the night duty officer, reported the circumstances to the Superintendent on Sunday 22 October, and the Superintendent having conducted his own enquiries, dismissed Bremner and Wilkie four days later.

Proceeding with their examination of witnesses, the Watching Committee concluded that the account given by Superintendent Brown was accurate and that the dismissals of Bremner and Wilkie were justified. However the enquiry revealed that with the exception of Lieutenant Young, the other lieutenants had been accustomed to improperly resorting to taverns. Indeed evidence was heard from a Dr Black that during 1820 he had been called to the Main Police Office on two hundred and forty eight occasions after one o'clock in the morning and with the exception of Lieutenant Young, he had seen the other lieutenants regularly drunk on duty or at least the worse for liquor. Dr Black stated that in his opinion this custom had developed after the death of Lieutenant Bogue in the autumn of 1819. Accepting that the Superintendent had no prior knowledge of these circumstances, the Watching Committee recommended that he should in future by occasional visits, ensure that such misconduct did not occur.

## **OTHER OFFICERS OF POLICE AND WATCHMEN**

Whereas under the 1805 Act a distinction had been made between 'constables' and 'watchmen', the former being based at the Police Court under the direction of the Superintendent as Judge, no such distinction was made under the 1812 Act. Moreover, whilst the term 'Officers of Police' under the 1805 Act referred to serjeants, the equivalent term 'inferior Officers of Police' under the 1812 Act, extended to the lieutenants as well as serjeants. The 1812 Act vested in the Superintendent 'and all or any of the Officers to be named by him', all the powers belonging to constables by the law of Scotland. Holding the office of constable ensured that all were subject to the external accountability of the law for false arrest or similar delict. To develop impartiality and prevent corruption, it became an offence to 'entice' any officer from his duty. For the avoidance of any doubt there was a provision that nothing in the 1812 Act prevented the Bailies, or Sheriff Depute from

'punishing or dismissing any of the Officers appointed' at any time when they found it necessary or proper to do so. Printed regulations on the duties of the new Police were issued in April 1814 and in April 1820, but they are not extant.<sup>64</sup>

On the theme of accountability however, the 1812 Act also advanced the notion of internal accountability to the Superintendant as head of the Force. It has already been mentioned that the 1812 Act removed the authority of the Residential Commissioners to appoint watchmen and other officers of police in the numbers determined by the General Commissioners, and vested this authority in the Superintendant. The declared object of this provision was to make the Superintendant 'answerable for the conduct of the Watchmen and other Officers of that Department', and indeed this important constitutional principle was confirmed by the General Commissioners in January 1821 when they investigated the dismissal of Lieutenants Bremner and Wilkie.

The main tasks for the new Police remained the same under the 1812 Act. Thus they were:

Required to apprehend and bring to Justice, Persons guilty of all Crimes, Misdemeanours, and other Offences under the Act, and to be aiding and assisting to the Magistrates, Dean of Guild of the City and the Sheriff Depute of the Country in all matters preserving Peace and Good Order.

Moreover they were tasked to apprehend all vagrants and common beggars for examination, and also enforce the regulations made under the 1812 Act.<sup>65</sup> In the absence of specific consideration by the General Commissioners, or tendering in the annual accounts over the period 1812 to 1822, it cannot be presumed that the 1812 Police patrolled in the standard uniform introduced in 1805. By 1812, the Court constables and daymen were clearly distinguishable by their uniform and even the nightwatchmen were issued with greatcoats with numbered breastplates at the expense of the establishment. In the absence of documentary evidence, it can only be presumed that the standard uniform for the increased numbers of officers was thought an unnecessary expense and requirement for a preventive Police. For legal and identification purposes, Police officers had to produce their numbered baton as a sign of their constable authority. Indeed the issue of a standard uniform was not considered again by the General Commissioners until 1829.

On 10 August 1812, after approving the nomination of James Brown as Superintendent, the General Commissioners thereafter resolved that the establishment was to comprise of three 'subaltern' officers to be known as lieutenants, one serjeant major, twenty six serjeants and one hundred and eighty watchmen. It was also agreed that the lieutenants would receive £80 each per annum (payable quarterly), the serjeant major £60 per annum (payable quarterly), the serjeants 2/6d per day plus their fees as constables in the Court (payable weekly) and the watchmen 2/- per day or night with suitable remuneration (without half of any fine) to any night watchman detained through part of the day to give evidence against defaulters before the Court (payable weekly). The Clerk to the General Commissioners was instructed to advertise by handbills, the description of watchmen required. However at their next meeting the General Commissioners increased the number of watchmen to two hundred and resolved that they receive 15/- per week. They also allowed Superintendent Brown to enrol at least fifty supernumeraries to be ready on a call for assistance on the same rate of pay as watchmen when called to duty.<sup>66</sup>

The weekly wage of 15/- was a significant increase from the 9/- per week which was allowed for a nightwatchman under the 1805 Act. The increase in wages was intended to recruit a higher calibre of watchmen and compensate for the withdrawal of 'moiety' from the Police. The first annual report published in July 1813 referred to the high expenditure in the Watching Department over the first year but accepted that as the watchmen were in the 'vigour of their age' and were at the entire disposal of the Superintendent, their wages were necessarily high. By August 1813 however the relatively high expenditure by the Watching Department began to cause a severe financial strain. A Committee chaired by Sheriff Rae was tasked to confer with the Superintendent and decide how far the establishment could with safety be diminished. Although no details of the reduction in manpower were given at the time, at a meeting in October 1813 the General Commissioners were informed that 'a retrenchment both in the number and pay of the Night Watchmen' had already taken place which was calculated to produce a saving of £1,445 per annum in future years.<sup>67</sup>

Concerns over finance continued to determine the number of officers and watchmen employed, or rather dismissed on the choice of the Superintendent. In April 1814, the



General Commissioners directed that the establishment be reduced by nine serjeants, but that the pay of the remaining twenty one serjeants 'be augmented to 20/- each week'.<sup>68</sup> It soon became clear that there was no security of tenure for officers and watchmen and it appears that the employment of some was only temporary. Figure 4B is taken from the printed abstract of accounts for the year ending Whitsunday 1814 and reveals the actual reduction in number of officers and watchmen over the preceding year.

**Figure 4B - Fluctuations in Establishment Strength in 1813-1814**

Manpower	Costs
26 serjeants for 40 weeks at 17/6 each 30 serjeants for 7 weeks at 17/6 each 21 serjeants for 5 weeks at 20/- each	£1,198-15-0
170 night watchmen for 13 weeks at 15/- each 150 night watchmen for 13 weeks at 13/- each 152 night watchmen for 26 weeks at 13/- each	£5,498-16-0
30 day watchmen for 25 weeks at 15/- each 20 day watchmen for 25 weeks at 15/- each 18 day watchmen for 26 weeks at 15/- each	£ 928- 10-0
Pay for extra duty performed	£ 21- 0-1½
	£7,642- 1-1½

Source: E.P. Minute Book (1812-1819) ibid. p101

However after the substantial reduction in the establishment, later concerns over rioting in the city led to an increase in the number of watchmen employed. Figure 4C shows the establishment strength over the period 1813-1822, taken from selected annual reports.

**Figure 4C - Establishment Manpower 1813-1822**

Year	Serjeants	Daymen	Nightmen
1813	26	30	170
1814	26 30 21	30 20 18	170 150 152
1815	21	18	152 162
1816	21	18 22	162 169
1817	21	22	166
1818	21	22	166
1819	21	22	166
1820	21	22 19	169 166
1821	21	19	169
1822	21	19	169

Source: E.P. Minute Book (1819-1821) ibid. p102 for years 1814-1819, p213 for 1820, p339 for 1821

The wages of the officers and watchmen over the same period, were also subject to fluctuations corresponding to the price of labour on the market. Set against the average wages of 20/- for artisans and 12/- for labourers about this period, the 15/- for watchmen appears fairly good remuneration. However indications of a general economic slump first arose in a report from the Watching Committee in January 1816. Advising that the reduction in the price of labour would enable the General Commissioners to lower the rate of wages to the watchmen, they added the rider that the recompense must continue 'to secure a sufficient number of able bodied men willing to fulfil the disagreeable and unhealthy tasks of walking in the streets from nine at night till six in the morning'.<sup>69</sup> The outcome was that over the years 1816 to 1819, when serjeants continued to receive 20/- per week, the wages of the day watchmen dropped from 15/- to 13/- per week for thirty five weeks of the year, and the wages of the night watchmen dropped from 13/- to 11/- per week over the same period. Supernumeraries were paid a flat rate of 7/- per week whilst employed.<sup>70</sup>

The payment of weekly wages to officers and watchmen employed under the 1812 Act appears initially to have been mismanaged and as shall later be explained, open to abuse. Only in December 1819 did the Watching Committee recommend that weekly pay lists should be kept at each watchhouse showing the names of the serjeants, watchmen and scavengers located at the watchhouse, the sums paid and the initials of the person receiving the wages. By April 1820 the same Watching Committee recommended that a Pay book be kept in each watchhouse, showing the same information as the pay lists but also showing any fines imposed against any individual or any sums deducted from their pay for breaking lanterns, with their 'signature or mark' opposite the pay actually received.<sup>71</sup>

Although the Superintendant was solely responsible for appointments and dismissal at pleasure there are no details of discharged Police officers contained in the minute books of the General Commissioners for the period 1812-1822, other than the case of Lieutenants Bremner and Wilkie. The records of the Lord Advocate Department however, shows that two Edinburgh watchmen named John McFarquhar and Archibald Fraser, were prosecuted on indictment in January 1815 for theft at the Main Police Office but their fate is unknown.<sup>72</sup>

Despite the meagre conditions of employment for Police officers there was a significant improvement in the provision for those forced to retire through injury. The 1812 Act allowed the General Commissioners to provide money for any officer of police 'who may at any Time be disabled or wounded in the Execution of his office' or provide money for the family if he should loose his life in the Execution of his office. The General Commissioners exercised this provision in the case of night watchman Robert Bryce who was seriously injured during the 'hogmanay riots', by allowing him 8/- per week between September 1812 and March 1814, but thereafter the provision was exercised stringently. The procedure for ordinary sickness was also eventually more properly managed for the Watching Committee reported that from April 1820 no employee would be retained on the sick list for a longer period than fourteen days without the sanction of the Committee and a certificate of sickness signed by the Superintendant and Surgeon.<sup>73</sup>

#### ADMINISTRATION OF THE 1812 ACT

The 1812 Act allowed the General Commissioners to appoint any number of collectors and clerks thought necessary 'for levying, receiving, and paying away the Monies to be raised' under the assessments, and to provide suitable salaries and sufficient security for their intromissioners with the funds collected.<sup>74</sup> Whereas under the 1805 Act, the Principal Clerk was assisted by a part-time clerk in each of the six Wards, the General Commissioners under the 1812 Act decided to place all the equivalent duties on the Principal Clerk only. On 13 July 1812, they nominated John Murray, Principal Clerk of Police at a salary of £200 per annum plus any assessment due under the 1812 Act.<sup>75</sup>

As Principal Clerk John Murray had many onerous duties apart from attending meetings of the General Commissioners and keeping their minutes. He attended to all the standing and ad hoc committees also, and more often than not, he read Committee reports back to the assembled General Commissioners. Attending to the Committee for Appeals against Assessment alone was time consuming, for 'Petitions for Relief' averaged about three hundred per year under the 1812 Act.<sup>76</sup> It was also the duty of the clerk to enter into all correspondence with outside agencies and persons. Finally as clerk, Murray was also

required liaise closely with the Superintendant in all matters pertaining to the Police including the sanctioning of wages to the inferior officers of police and watchmen, and the requisitioning of materials for police duties. Over and above these tasks, the clerk was expected to attend to the daily sittings of the Police Court now under the jurisdiction of the Bailies.

Murray clearly could not attend to all these duties alone and he himself appointed and paid an assistant clerk whose main tasks appear to have been to assist by attending at the daily sittings of the Court. This arrangement is only alluded to when Murray presented a memorial to the General Commissioners on 8 July 1817. The memorial sought an extra allowance for the assistant clerk, and reveals that Murray himself had employed the assistant clerk over the previous five years, paying him £40 per year and allowing him to retain any fees of Court granted. Over the first two years, this agreement had produced an average salary of £79-13-0d per annum for the assistant clerk. However, a change of Court practise in July 1814, whereby the fees of bail bonds for 'keeping the peace' and for 'good behaviour' had been restricted, as they were considered too great a burden for accused persons; the result was that the average salary for the assistant clerk over the next three years had fallen to £49-7-4d per annum. The memorial was referred to an ad hoc committee for enquiry, and in October 1817 they recommended that the Principal Clerk continue with a £200 salary per annum, but that he should have no duties connected with the Police Court; and that besides the fees of Court, he should also be allowed £60 per annum for an assistant clerk. The recommendation was approved by the General Commissioners and the arrangement continued for the remainder of the period under the 1812 Act.<sup>77</sup>

What was to become the first major scandal and embarrassment over the lack of effective audit controls over the new Police and system of police was revealed at a meeting of the General Commissioners in October 1819 and it concerned the conduct of Principal Clerk, John Murray. After a report from the standing Cleansing Committee was presented to the meeting, Peter Brown, a Residential Commissioner for Ward 4, pointed out that the expenditure for the year 1818-1819, contained a charge of £385-16-3d for brooms, and this greatly exceeded the value of brooms that could have been furnished to the scavengers in

one year. His motion to have a special committee investigate the matter was agreed, and it eventually reported back to the General Commissioners in December 1819.<sup>78</sup>

Murray was allowed to withdraw when the report was presented and considered. The Committee uncovered a fraudulent scheme between the broom storekeeper named Forsyth and a supplier named Blackhall. Forsyth had been a serjeant dismissed in 1816 from the Police for improper conduct, but as he had been appointed as storekeeper by Murray it was only suspected that the fraud had been perpetrated with his collusion. When examined, Blackhall claimed that he kept no books and that he had destroyed all the vouchers received from Forsyth. Murray naively produced four receipts issued by Forsyth to Blackhall, which bore no resemblance to brooms allegedly purchased on four different dates. It was estimated that the quantities alleged would have required between thirty and seventy carts in respect of each delivery and it was known that deliveries by three to seven carts were the norm. Figure 4D shows the number of brooms allegedly purchased between 1813 and 1819.

**Figure 4D - Brooms Allegedly Purchased 1813-1819**

Year	Number of Brooms	Cost
1813-14	1,640 dozen brooms	£164
1814-15	1,647 dozen brooms	£148/19/ 2
1815-16	2,176 dozen brooms	£217/12/ 0
1816-17	1,586 dozen brooms	£138/15/ 6
1817-18	2,534 dozen brooms	£232/ 5/10
1818-19	4,548 dozen brooms	£385/16/ 3

It was manifestly evident that there was a sharp increase in the number of brooms ordered when Forsyth became storekeeper in 1816 and these orders required the sanction of Murray. Forsyth had been replaced by an 'honest storekeeper' for about a year and the number of brooms ordered had fallen significantly. However when the 'honest storekeeper' was displaced, Forsyth was restored and the fraudulent scheme recommenced to a greater extent.

The special Committee conducted their investigation while Superintendant Brown was in England. When he returned to Edinburgh on 28 November 1819 and learned of the circumstances, he had Blackhall and Forsyth arrested and bailed with the circumstances reported to the Sheriff. Murray obviously came close to being dismissed and probably only his eight page letter in part extolling his own virtues, but also offering some explanation of omission and an apology, saved him. Nonetheless he was censured for paying Blackhall without proper vouchers and receipts.

The method of calculating assessments was more elaborate under the 1812 Act, and the rate formula for raising finance was also different. The General Commissioners were empowered 'to assess all Tenants, Occupiers and Possessors of Dwelling Houses, Shops, Warehouses, Cellars, Vaults or other Buildings or Pertinents thereof'. However the rate formula - 'any sum not exceeding three pounds per centum of the free rent' under the 1805 Act, which required a system of independent surveys to ascertain a 'real rent' before a 'free rent' could be calculated, was not repeated in the 1812 Act. Instead the General Commissioners were obliged to adopt the system of 'yearly rents' calculated for the purpose of levying The House Tax Act 1808. The rate formula applied was 'any sum not exceeding One Shilling and Five-pence in the Pound of the Yearly Rent' which was the equivalent of up to seven pounds per centum of yearly rent.<sup>79</sup> This provision meant that there was no need to appoint surveyors under the 1812 Act and instead the General Commissioners could rely on certified copies of the rent rolls produced for the House Tax. However the assessor who provided the rent rolls submitted a charge for this service. In October 1814 a memorial from the assessor was considered by the General Commissioners and they approved a 100 guineas fee for drawing up the certified rent roll.<sup>80</sup>

In order to discharge existing debts the 1812 Act allowed the General Commissioners to assess every person resident in the district concerned (i.e. under the six Ward system) an additional of sum 'not exceeding One half per Centum of the yearly rent'. All the assessments were calculated for the year from Whitsunday 1812 and annually thereafter. The rate was set by the General Commissioners each July and payment was due each Martinmas. The 1812 Act continued the effective system of summary diligence and pouding of moveable goods against those who refused or neglected to pay their rates.<sup>81</sup>

To close obvious loopholes, assessment under the 1812 Act specifically applied to all travelling merchants, auctioneers, hawkers, pedlars and others who took up a temporary residence within the jurisdiction, 'for the purpose of disposing of Merchandize, Goods, and other Effects'.<sup>82</sup> It was also declared that members of the College of Justice, Barons, and other Officers of the Court of Exchequer were no longer exempt from these rates. Otherwise exemption from rates was generally extended to any premise 'the rent of which shall be under Five pounds Sterling per annum, provided that no spirituous Liquors of any sort was sold therein'. In addition exemption was specifically extended to the Palace of Holyroodhouse, the Castle of Edinburgh and the Barracks in Queensberry House, Canongate, so long as they were occupied by troops. Finally, the arrangement for arbiters for appeals under the 1805 Act was not re-enacted. Instead the 1812 Act provided that any question or dispute arising in relation to any assessment or rate demand, was to 'be brought before the General Commissioners by Petition' and a standing Appeals Committee was constituted for this purpose.<sup>83</sup>

At their first meeting in July 1812, the General Commissioners decided that Paul Baxter who had been appointed in June 1810, should continue as Collector but obliged him to find £5,000 security for any intromissions. They also allowed him the £3 per centum of rates collected as remuneration, which according to accounts produced in July 1813 (covering the previous nine month period) provided an income of £471-4-2d for his efforts. Although the remuneration was much higher than that obtained under the 1805 Act, the rates collected were much higher and therefore no sustained objection to the £3 per centum payment rule was made. When an ad hoc committee reported in July 1814 that it would be advisable to fix the salary of the Collector, the General Commissioners disagreed and unanimously approved continuation of the £3 per centum rule.<sup>84</sup>

In October 1816 a Residential Commissioner for Ward 26 complained that the £709 remuneration for the Collector during the year 1815-16 was too high. He suggested that the Collector be paid a fixed salary of £200 to £250 and that the serjeants should collect the rates during the daytime while doing their rounds, and pay over the sums each night to the Collector. An ad hoc committee was appointed to examine the proposal and it reported in

January 1817. The committee found in fact that the Collector had received £647 over 1815-16 but after he had deducted his £266 expenses for books, stationary and office rent, left him £381 for his efforts. They dismissed the proposition to use the serjeants as collectors as being 'altogether impracticable and incompatible with the duties required of the Serjeants of police'. Given his tasks, the General Commissioners agreed that the Collector 'ought to be liberally paid' and they again endorsed the £3 per centum payment rule.<sup>85</sup>

Given the progressive growth of the city with correspondingly higher gross rental values and the increase in the establishment, it is not surprising that revenue and expenditure under the 1812 Act rose dramatically. Financial problems continued to dominate discussions at the meetings of the General Commissioners, even although a standing Finance Committee examined revenue and expenditure accounts almost continuously between 1812 and 1822. For the sake of analysis, the financial problems can be considered under three heads. The first concerned the new assessments and collection of rates under the 1812 Act, the second was the 'old debt' incurred under the 1805 Act which carried on long after 1812, and the third was the origin of 'new debt' which naturally took time to come to light.

As regards the new assessments and the collection of rates under the 1812 Act, the annual and growing deficit experienced under the 1805 Act, was not repeated to the same extent and this appears to have been due to more effective legislation and more efficient administration on the part of Collector Baxter. Nevertheless Figure 4E shows the relationship between the annual rate applied on the rental values between 1812-1822 and the predicted annual gross assessments against actual revenues.



**Figure 4E - Rental Values, Rates, Assessments and Revenues 1812-1822**

Year	Rental Value £	Rate	Gross Assessment £	Revenue £
1812-13	304,053	1/6d	22,835	21,208
1813-14	303,883	1/6d	23,054	21,196
1814-15	310,511	1/6d	23,475	21,659
1815-16	315,122	1/6d	23,882	21,979
1816-17	313,925	1/3d	19,792	18,447
1817-18	313,717	1/5★d	22,941	21,273
1818-19	331,861	1/6d	24,472	23,147
1819-20	336,428	1/6d	25,232	23,465
1820-21	346,831	1/-	17,341	16,127
1821-22	349,710	10d	14,893	13,551

Sources: Extract of Finance Committee Report considered at meeting of General Commissioners  
14 Jan. 1822 and published 19 Jan. 1822 - Held at Edinburgh Central Library.

Revenues obtained were always less than gross assessments. Indeed it became standard practice to deduct a 7% allowance for what was described as 'desperate' arrears, which meant those sums which would never from experience be collected. The 7% allowance for non payment was an annual average calculated by a Committee on Receipts and Expenditure as late as June 1820. The committee calculated that between Whitsunday 1812 and Whitsunday 1819 assessments amounted to £160,454, and that over the same seven year period £146,523 had actually been collected. With a deficit of £13,931 over seven years, the committee concluded that 'seven per cent annually allowed on the gross assessment was fully adequate if not more than adequate to cover the deficiencies'.<sup>86</sup>

As regards establishment expenditure over the same period, Figure 4F shows the sums expended by the Watching, Cleansing and Lighting Departments, as adjusted in respect of changes in the lay-out of the printed annual accounts.

**Figure 4F - Establishment Expenditure 1813-1822**

Year	Watching £	Cleansing £	Lighting £	Total Expenditure £
1813	13,170	2,640	7,143	22,953
1814	10,270	3,928	5,376	19,574
1815	10,703	3,935	6,852	21,490
1816	10,963	4,660	3,867	19,490
1817	10,755	7,954	6,112	24,821
1818	11,151	4,815	5,404	21,370
1819	11,343	3,643	5,631	20,617
1820	10,817	2,541	4,741	18,099
1821	10,228	3,400	4,400	18,028
1822	10,680	3,669	5,719	20,068

Sources: Annual printed accounts of Establishment 1813-22 The expenditure for watching in 1813 was obviously high because of the strength initially authorised, plus the cost of establishing watchhouses and watchboxes. The relatively high expenditure in cleansing over the years 1816-1818 arose because of a civil dispute with the Tacksman appointed under the 1812 Act, whilst the fluctuation in lighting expenditure can only be explained by the changes in oil and labour costs and the introduction of gas in 1819.

As regards the 'old debts' incurred under the 1805 Act, these continued for some time after 1812. By July 1817, the Accounts Committee detailed debts totalling £5,549 still due under the 1805 Act and recommended continuation of the additional 1% assessment under the 1812 Act to discharge these debts. Moreover in August 1816 Clerk John Murray read a letter from the legal representative of the now deceased Neil MacVicar, the Collector between 1805 and 1808, claiming that his estate was still due £1,887. The meeting remitted the accounts to the former General Commissioners under the 1805 Act, for authentication. However the debt appears to have been substantially ignored, because the Finance Committee reported again in December 1819 that £1,285 plus interest was still due by the estate.<sup>87</sup>

The 'new debt' under the 1812 Act did not substantially arise until after 1816 and by 1819 this stood in excess of £10,000. According to the Finance Committee report in April 1819, the new debt mainly arose from two sources. Firstly, in the year 1815-1816 the General Commissioners 'imprudently lowered the rate of assessment from 1/6d to 1/3d.' Secondly, after numerous complaints had been received about the state of dung depots the General Commissioners discharged the tacksman named Ryrie, but as consequence of their breach

of a restrictive practice contract and not being able to sell the dung over a nine months period of time, revenue estimated at £4,000 was lost.<sup>88</sup>

Despite the unsatisfactory state of financial affairs under the 1812 Act, the position was much better than that under the 1805 Act. Given that both the establishment strength and the financing thereof had at least doubled, after 1812 the financial administration was much more effective and efficient. Indeed given that at least 90% of rate assessments were actually collected under the 1812 Act, it is hardly surprising that a local rate on property remained the future basis for financing local government services.

Finally, it should be noted that one of the key features of the 1812 Act in terms of administration was the corporate approach taken towards public safety and well-being. The General Commissioners not only held the Superintendant accountable for the new Police, but managed all aspects of public lighting and cleansing services. Although the Superintendant had overall responsibility, it was the serjeants in each Ward who had direct contact with those persons appointed on lighting and cleansing duties. Direction was exercised by respective Committees controlled by Residential Commissioners. As Figure 4F reveals, expenditure on lighting and cleansing services usually amounted to slightly less than the expenditure on watching.

The General Commissioners were given power to increase the number of public street lamps throughout the city.<sup>89</sup> In July 1813, the Lighting Committee reported that the annual cost of maintaining 4,160 oil lamps was £7,074 and that five hundred extra lamps had been introduced since the commencement of the new Act. Contracts were placed for lamplighters and the hours of burning, generally one hour after sunset till three o'clock in the morning during winter months was regulated by the General Commissioners.<sup>90</sup> In October 1817 a Committee was appointed to liaise with the Town Council over the creation of the Edinburgh Gas Company. Public gas lamps were gradually introduced, so that by June 1822, the City was lit by 4,731 oil lamps together with one hundred and sixty gas lamps in the Old Town and two hundred and thirteen gas lamps in the New Town.<sup>91</sup>

Improved management of public cleansing and refuge services was another outcome of the 1812 Act. The General Commissioners had powers to erect 'public necessities' and employ 'scavengers' to remove 'all soil, dirt, ashes and filth' to approved 'dung depots' near the city limits, where the produce could be sold by roup.<sup>92</sup> Whereas the practice of awarding a contract to a tacksman continued for some time, by December 1819, the General Commissioners appointed their own official at a salary of a 100 guineas per annum to be in charge of the dung.<sup>93</sup> The function of the Cleansing Committee which reported regularly to the General Commissioners, was to draw up the contract, deal with complaints from the public and supervise the management of the service under the tacksman and eventually their own official.

Improvements in cleansing services were continuous. While in September 1812 there were eighty-one scavengers employed in the City with an overseer, by December 1819 there were one hundred and six scavengers employed at 9/- per week.<sup>94</sup> These scavengers were divided between the six watchhouses, where they collected their brooms. The serjeant at each watchhouse had responsibility for keeping the signing on and off lists each day and for distributing their wages.<sup>95</sup> In December 1812, there were thirty-four 'dust carts' hired to remove dung from the streets, but after the General Commissioners resolved in January 1817 to appoint their own officials, approval was given to purchase fifty-five 'dust carts' for this purpose. The 'dung depots' were located at Powburn, Whitehouse, Slateford, Jocks Lodge and Leith Walk, and from these locations an average of 40,000 cubic yards of dung was sold to farmers each year. Selling at approximately 3/- per yard, to local farmers, the city dung produced an average of £6,000 per annum which was used to defray overall expenditure.<sup>96</sup>

The General Commissioners constantly attempted to rationalise lighting and cleansing services. As a consequence of the 'brooms' scandal, by August 1821 they appointed an Inspector to have specific responsibility for overseeing lighting and cleansing services and he had his own office in the Royal Exchange building. Ignoring the views of Superintendent Brown, the Lighting and Cleansing Committees appointed James Logan as the first Inspector, despite the fact that he had retired from the post of lieutenant in May 1820.<sup>97</sup>

## THE 1812 FORCE IN OPERATION

Although the 1812 Act for regulating the Police of the City of Edinburgh came into effect on Monday 6 July 1812, at the first meeting of the new General Commissioners that day, it was resolved that for the time being the system of police existing under the 1805 Act would continue. Of the three Inspectors continuing under the 1805 Act system, Inspector Brooks was placed in temporary charge until the appointment of Superintendant Brown on 10 August 1812. The three Inspectors received their salaries under the 1805 Act until November 1812. Although not minuted, the three Inspectors appear to have become the new lieutenants under the 1812 Act.<sup>98</sup>

Some progress had been made under the 1805 Act in respect to the establishing of an adequate number of watchhouses, but greater efforts were made in this respect by the General Commissioners appointed under the 1812 Act. Despite the closure of the Police Court at Riddells Close in the Lawnmarket, the premises were subject to a six year lease expiring Whitsunday 1815, and therefore continued for a while as a watchhouse. However approval was gained during April 1813 to spend £770 to convert what was referred to as the 'old Church aisle' within St Giles Church in the High street into a Main Police Office.<sup>99</sup> Consideration was given to building or renting watchhouses near North Bridge, beside the Chapel of Ease at Portobello and near the foot of Leith Walk, but by 1813 the six watchhouses in the city were located in the High Street (known as the Main Police Office), Canongate (in the Tolbooth), New Town (within the Assembly Rooms in George Street), the foot of Calton Hill, Portsburgh (West Port) and at Park Place.<sup>100</sup> A committee of General Commissioners was appointed in August 1819 to consider a better location for the Main Police Office but failed to identify a suitable place.<sup>101</sup>

The system of watchboxes was extended under the 1812 Act and to cater for the needs of the increased establishment. In August 1812 the General Commissioners commissioned a local joiner to make a pattern watchbox to the specifications of Superintendant Brown. A wooden pattern costing £7 each was made by September 1812 and was described as being 6'9" high, 29½" square with door having four 4" hinges and a strong lock. In October 1812, the suggestion that further watchboxes should be constructed from cast iron, was

referred to a Committee, but neither their findings nor the actual number of additional watchboxes made is minuted.<sup>102</sup> A number of watchboxes were located in each of the twenty six Wards in the city and that several were used as the location for ballot boxes in the Ward elections each July. However in March 1821 the Watching Committee for no minuted reason, auctioned sixty-seven watchboxes by public roup, which raised on only £11 once £4 expenses had been deducted.<sup>103</sup>

During August 1812, the General Commissioners authorised the establishment of twenty six serjeants, thirty day watchmen and one hundred and seventy night watchmen. The original scheme envisaged having one serjeant and at least one day watchman along with an average of six or seven night watchmen for each Ward. However after temporarily increasing the number of serjeants, for reason of economy Superintendant Brown reduced the Police by twenty night watchmen during August 1813, and by nine serjeants during March 1814.<sup>104</sup>

Given the onerous duties of prosecuting cases before the Magistrates and attending most of the main police business committees, the Superintendant simply did not have the time to make regular supervisory inspections of the establishment. The three lieutenants were mainly responsible for ensuring supervision of both the day and night watchmen and for this purpose the city was divided into three districts, with a lieutenant responsible for maintaining discipline in each district. Between 1812 and 1818 one lieutenant came on duty each day (one every third day) and remained on call at the Main Police Office during the night that followed. The night shift task of the duty lieutenant, involved confirming the legality and propriety of custody arrests made by the night watchmen and preparing the case papers for the Superintendant for prosecution the following morning. When this twenty-four hour rota system for lieutenants commenced in 1812, they managed to have some sleep during part of their night shift, however as the number of arrests made during their tour of duty increased over time, it became impossible for them to have any rest at night.

The appointment of a Captain Lieutenant rank in January 1819, relieved the other three lieutenants from the workload pressures involved in the arduous task of working a straight

twenty-four hour shift every third day. As immediate deputy to the Superintendent, the Captain Lieutenant worked a constant day shift, and much of his time was taken up receiving and investigating complaints received from members of the public. Such complaints could be made at the Main Police Office between ten o'clock and three o'clock each day and between six o'clock and nine o'clock each evening. Whilst the Captain Lieutenant worked a twelve hour, nine till nine shift daily, the straight twenty-four hour shift every third day continued to be the rota system for the other lieutenants. As their supervision of day arrests diminished leaving them only to supervise night arrests, they had more time to consider and execute other supervisory control of the day and night watchmen. Given the circumstances surrounding the dismissal of Lieutenants Bremner and Wilkie in October 1820 for drunkenness, the effectiveness of the supervision exercised by the lieutenants over the new Police is highly questionable.

The day and night watchmen were deployed on two separate shift rotas. The daymen worked from nine o'clock to six o'clock each day of the week whilst the night watchmen worked from nine o'clock at night through until six o'clock in the morning. A Watching Committee report in January 1815 stated that:

The greater number of the Night Watchmen are furnished with lanterns and posted at convenient distances from each other; but a considerable portion is also formed into patrols, who make their rounds without lanterns in various directions both before the nightly watch is set and after, thus seeing that the Watchmen do their duty and ready themselves to be of use in situations where they are unknown and least expected to make their appearance.

A Watching Committee report dated the following January, 1816 referred to the supervisory role of the serjeants, declaring that 'each of the Watchmen is visited on his post at least four or five times every night.'<sup>105</sup> As the daymen and night watchmen worked fixed hours, it can only be surmised that in order to exercise the degree of supervision expected, the serjeants were either deployed on a rota system similar the three lieutenants, or were divided on a pro rata basis between day and night duties.

Again the nature of the work of the daymen and night watchmen can only be inferred from the contents of the 1812 Act and from the volume of cases brought to the attention of the

Superintendent for prosecution before the Magistrates. Most of the offences contained in the 1812 Act, such as those relating to vagrancy, common begging, cleansing, lighting, licensing of carriages for hire and road traffic would be investigated by daymen and night watchmen alike, but other offences such as those relating to the licensing of 'tippling houses' and 'brokers' would by the nature of the offence tend to affect some watchmen more than others. For example the night watchmen would no doubt experience the effects of drunkenness more during the late evening and night than the daymen, and the inspection of brokers would be primarily a task for the daymen.

When the occasion demanded, the whole Force was deployed to police events at which crowds gathered in the city. The 'hogmanay' and the 'King's birthday' celebrations were obvious times when a considerable part of the available manpower was deployed on the streets supplemented by the City Constables and even the City Guard, and public executions were another. There was no systematic training of the 1812 Force either in law or operational methods and it can only be presumed that the new recruit learned his tasks while on the street. Some guidance would have been provided by the lieutenants, serjeants and Residential Commissioners because in January 1813 they received a copy of George Tait's *Treatise on the Powers and Duties of a Constable*.<sup>106</sup>

There is no evidence to suggest that the 1812 Force attracted any sustained hostile reaction from the public in the city, but there were episodes of violence in which Police officers suffered death and serious injury. As a result of a riot which took place on the night of Monday 5 June 1815 in the city, several officers were severely wounded and one Serjeant Hone subsequently died. Sheriff Rae convened a special meeting on 12 June 1815 'to consider how far it was expedient any longer to continue the City Guard' who had not assisted the Police. The meeting resolved to allow £10 plus funeral expenses to the widow of Serjeant Hone, ten guineas to a George Brodie, dayman, five guineas to a John Elliot, and another fifteen guineas for the Superintendent to distribute to the others injured. Moreover the General Commissioners resolved that it was highly expedient for the City Guard to be totally abolished and sounded the death knell by appointing a committee of the Sheriff Depute and six others to meet the Lord Provost and Town Council.<sup>107</sup>



Sheriff Rae convened another special meeting on 6 July 1815 after more unwarranted attacks on the watchmen. He described how on the night of 4 July 'a tumultuous attempt had been made to rescue a carter' who had been guilty of knocking down a woman on the public street. In the affray which ensued, several watchmen had been injured. After discussion a motion was approved to increase the strength of the Force by ten watchmen.<sup>108</sup> More importantly the Superintendant was authorised in future to deploy some officers in disguise among the crowd, so as to secure evidence against the ringleaders of any such tumultuous assembly. The use of officers in plain clothes to secure evidence had not been properly discussed and this decision had very important consequences which only came to light several years later.

The incidents in June and July 1815 were the only occasions that could be regarded as evidence of public dislike for the 1812 Police yet the disturbances appear only to have involved a small group of citizens. Concerns over the safety of the police officers may have encouraged the purchase in July 1815 of a pair of pistols for £1-5-0d. The purchase of the firearms was justified for use in emergency situations although there are no recorded occasions of firearm use by the 1812 Police or indeed the 1805 Police before them. An example of the indiscriminate use of a firearm and the lawlessness of some demobbed soldiers occurred on the 18 June 1816. Lord Provost Arbuthnot called a special meeting of the General Commissioners two days later. He reported that a number of disorderly persons had attacked two officers while they peaceably stood near to the Main Police Office and that an unidentified person had fired a pistol dangerously wounding one of the officers in the head. The Commissioners agreed to offer a reward of 100 guineas to trace those responsible and seek a Royal Pardon for any co-accused who gave evidence of who fired the pistol.<sup>109</sup>

Other cases of individual assaults on police officers are revealed in petitions for relief submitted to the General Commissioners, and in reports of the Watching Committee. In April 1817 a petition from night watchman John Philips, with nine years service in the Portsburgh district, refers to being attacked by two men who had struck him with the butt of a gun on the right side of his head and as a consequence he had spent five weeks in the Royal Infirmary. After conferring with the Superintendant who had knowledge of the

circumstances, the Commissioners authorised the payment of 7/- per week until further notice. A Watching Committee report in January 1819 mentions that at the public execution of Robert Johnstone, stones thrown by the mob at the police on duty had seriously injured a serjeant and injured seven other watchmen.<sup>110</sup>

The general conduct of the 1812 Police towards the public as well as their effectiveness in preventing crimes and offences were dominant themes in the reports of the Watching Committee. In January 1816, the Watching Committee reported that they had:

Full reason to be satisfied that the watchmen have been uniformly attentive and civil. To expect that in the course of a whole year some instances of a contrary nature should not have occurred amongst nearly two hundred persons of that class of society from which night watchmen behove to be taken, is to look for more than human nature admits of. The instances of this kind have however been surprisingly few, and this can only be accounted for by the system affording every means that can be devised for guarding against such irregularity.

The Watching Committee reports made clear that discipline was strictly applied for any perceived neglect of duty, with a fine being the norm and 'instantaneous dismissal if such neglect be of an aggravated nature'.<sup>111</sup>

## THE 1816 AND 1817 AMENDMENT ACTS

In recognition of certain defects in the workings of the 1812 Act, the General Commissioners in October 1815 appointed a Committee for revising the Police Act. Specifically the House Tax Act 1808 was due for reform and a new method of raising assessments and revenues was required. Sheriff Depute Rae, who chaired the committee, presented the draft amendment Police bill to the General Commissioners in January 1816, and during discussion the last minute redrafting of some clauses was agreed. Thereafter the meeting confidently directed that the bill 'be immediately transmitted to Messrs Spottiswoode & Robertson, Solicitors in London, with instructions that they take the necessary steps for bringing the Bill into Parliament with as little delay as possible'.<sup>112</sup>

At this stage copies of the proposed amendment Police bill were forwarded to constituted bodies within the city. Opposition from the legal profession arose immediately because Lord Provost Arbuthnot convened a special meeting on 14 March 1816 for 'the purpose of reconsidering some clauses in the Police Bill'. Discussion focused on a clause appointing 'an assessor to the Magistrates when acting as judges in the Police Court'. The outcome of this meeting was a direction to James L'Any, Advocate, Residential Commissioner Ward 12 and member of the committee, to prepare a new clause on that subject, and also to reconsider another clause about the recovery of penalties arising from the forfeiture of bail bonds. In April 1816 further discussion took place on the clauses in the draft Police bill and cognisance was taken of the views submitted from a committee representing the Incorporation of Hammermen in the city. The outcome of this meeting was unanimous agreement on substituting two clauses; one concerning power to the Lord Provost to appoint legal assessors to the Bailies, at a salary not exceeding £100 per annum, and the other providing that it was competent for the Superintendant to initiate complaints in respect of 'streets, pavements, drains or sewers being in need of repair'. The amendments were also communicated to the legal agents in London.<sup>113</sup>

The Police bill of 1816 then encountered considerable opposition whilst in Parliament from Sir John Majoribanks, MP for the City, who put the critical views of the legal professions and the merchants against the additional financial burdens for Court assessors. When the General Commissioners met in May 1816 to reconsider the Police bill, the outcome was a decimation of the original proposals. Specifically, clauses concerning certificates for ale licenses, holes in pavements, restoring openings made in the streets, regulations as to gunpowder, public conveniences, steam engines and furnaces, hotel keepers, and driving cattle to slaughterhouses, were deleted from the bill. The meeting learned that Lord Provost Arbuthnot and Sheriff Depute Rae were in London with Sir John Majoribanks and they directed the clerk to send the redrafted amendment Police bill to the legal agents in London along with a copy of the Act of Council dated 3 May 1816.<sup>114</sup>

Eventually the much reduced bill gained approval in Parliament and represented a victory for the legal professions and the merchants against the General Commissioners. Other than opposition to appointing legal assessors for the Bailies, there is no obvious reason

why they opposed the other methods proposed, other than perhaps failure to adequately consult legal and city interests in advance. The amended Edinburgh Police Act 1816 which came into effect on 22 June, contained only eight sections and was to continue for only one year. However it contained some important provisions. It clarified the jurisdiction of the Bailies to punish 'criminals and delinquents of all description' at common law as well as those contravening the statutory offences created under the 1812 Act. Directing that the assessment for the purposes of Police would 'continue to be assessed and levied according to the real rent of the subjects', it added the no detriment provision that no premises would be rated at a higher rent than would have been charged in the assessment under the Property Tax payable for the same premises for the year ending on 5 April 1815. Finally the 1816 Act extended exemptions from rates to any premises erected for the purpose of public charity, places of public worship or for the purposes of science or education.<sup>115</sup>

The timing of the 1817 Act was determined by the one year duration prescribed for the 1816 Act. On this occasion the proposal for legal assessors was dropped and the legal professions, merchants and other incorporations in the city supported all the other measures which were originally proposed in the 1816 Police bill. Indeed the proposed Police bill in 1817 appeared to have no opposition locally. In January 1817, Lord Provost Arbuthnot presented the draft Police bill prepared by the ad hoc committee and intimated that it would be circulated to interested bodies. In March 1817 the General Commissioners discussed the bill clause by clause making only slight amendments before it was sent to the House of Commons on 24 March 1817.<sup>116</sup>

The 1817 Act with thirty nine sections came into effect on 16 June and continued in force during the remaining term of the 1812 Act.<sup>117</sup> The jurisdiction of the Bailies in the city to punish 'Criminals, Delinquents, and public Offenders of all Description' or remit them to a 'higher criminal Tribunal, according to the Nature of the Offences' was again restated. However the range of punishments available to the Bailies as Magistrates were extended. Offenders found guilty of any other petty crime or offence who already had suffered sixty days imprisonment, and who had no fixed residence in the city or any visible means of subsistence, could be banished from the city for a period not exceeding six months. If the

offender returned within the period of banishment, they would automatically be committed to the Tolbooth or Bridewell for a period not exceeding sixty days. Imprisonment not exceeding sixty days and fines not exceeding £10 could still be imposed but awards of damages were increased from £3 to £5. A system of recovering forfeited bonds of caution was created in respect to those offenders who committed an offence subsequent to being required to find caution for good behaviour or for keeping the peace; and it was also deemed legal to remand an offender until any required caution was found.<sup>118</sup>

A new Police power of granting bail was a major legal innovation and was introduced, as a consequence of the increase in the number of offenders being arrested.<sup>119</sup> To assist in the detection of offenders, power was granted to the Superintendant to apply to the Sheriff Depute for a warrant to apprehend or cite persons and to search for articles anywhere within the shire. Such warrants of course would in regard to the mutually exclusive but competing jurisdictions, dispense with the necessity of having warrants 'backed' or endorsed by Justices of the Peace in whose territorial jurisdiction the offender was found, and therefore would greatly enhance the speed of enquiry and improve the efficiency of detection.

The 1817 Act substantially increased the number of permanent non-elected General Commissioners. The 2nd, 3rd and 4th Bailies, Treasurer and Deacon Convenor of the Trades, Dean of the Faculty of Advocates, Deputy Keeper of His Majesty's Signet, Master of the Merchant Company, Praeses of the Society of Solicitors before the Supreme Courts in Scotland, and the Convenor of the Southern Districts were added to the list of permanent General Commissioners named in the 1812 Act.<sup>120</sup> All these offices had previously been General Commissioners under the 1805 Act and their re-appointment in 1817 may have to have been politically motivated by the Lord Provost and Sheriff Depute to strengthen their control over elected General Commissioners, some of whom had Whig tendencies. Other minor changes were made by the 1817 Act. For example, future meetings of the General Commissioners were to be held in the Main Police Office. Moreover, the minutes of the General Commissioners had to include the names of the Commissioners present at the meeting and be subscribed at the end by the praeses. Being signed the entries were

deemed originals and allowed in evidence in any civil action arising. They could also be inspected at all reasonable times by any person assessed under the 1812 Act.<sup>121</sup>

As regards the method of calculating assessments, the 1817 Act provided that for the purpose of ascertaining and imposing the annual assessment under the 1812 Act, the General Commissioners should 'ascertain the Sum necessary for defraying the Expenses of the Three Branches of watching, lighting and cleansing separately' and accordingly 'fix the Rate of Assessment to be levied for each of the said Three Branches also separately'. Thus, when the General Commissioners in November 1818, approved a total rate of assessment of 1/6d in the pound for the following year, they specifically authorised 9d for watching, 4d for lighting, 4d for cleansing and 1d for defraying any deficiency which may have arisen in each branch of service.<sup>122</sup> The additional 1d rate of assessment for 'defraying and deficiency' was also introduced by the 1817 Act and the principle continued in local government legislation in Scotland in respect of expenditure incurred but not authorised *intra vires*.<sup>123</sup> The 1817 Act reverted to the principle that the assessments would be levied according to the real rents of property, but also introduced the proviso that future annual assessments would require the consent of at least two thirds of the General Commissioners.<sup>124</sup>

Finally, the 1817 Act improved the legal enforcement of offences created under the 1812 Act and at the same time introduced other miscellaneous provisions. Whereas the 1812 Act authorised the Bailies and Sheriff Depute 'to require all persons keeping Tippling Houses, or Houses resorted to by riotous or disorderly People' to find security of between £10 and £50 for their good behaviour, the 1817 Act provided additional power 'to declare the Excise Licences of any Person selling Ale, Beer or spirituous liquors to be forfeited, upon Complaints being established against any such Person for permitting riotous or disorderly Conduct within the Premises.'<sup>125</sup>

In relation to the provision and maintenance of 'pavements, streets, roads, footpaths, pipes, drains, or common sewers' within the limits of the 1812 Act, power was granted to the Superintendent (the modern spelling first appeared in the 1817 Act) to give an 'Intimation in Writing to the Person or Persons liable to repair the same, requiring them to make such

Repair within a Time to be specified'. Failure to attend to such intimation allowed the Magistrates or Sheriff Depute within their respective jurisdictions, upon the application of the Superintendent 'not only to authorise such Superintendent forthwith to get such Repairs made, but to find the Person or Persons complained of liable in the Expenses of the same, and in all charges connected therewith, and to give Decree for such Expenses and Charges, and further to subject such Person or Persons in a Penalty for such Neglect, not exceeding Two Pounds'. Still on the theme of property improvements and the prevention of nuisances in the city, the 1817 Act re-enacted the provision in the 1805 Act (but absent in the 1812 Act) allowing the Dean of Guild to bring forward the frontage of shops and houses so as to remove the 'dark and incommodious' piazzas and recesses which were 'often filled with Nuisances, and may be Receptacles at Night for idle and disorderly Persons'.<sup>126</sup>

The other miscellaneous provisions in the 1817 Act related to the weighing of coals, and the supervision of brokers in the city. To strengthen the enforcement powers available to the Police it was declared that conviction for having any cart, waggon or other carriage found loaded with coals for sale without a valid certificate of weight issued by the keeper of a steelyard, would result in forfeiture of the coals. Moreover specific power was granted to the Police to order the re-weighing of coals offered for sale in the city, with any discernible shortfall being deemed an abstraction or embezzlement punishable by a fine not exceeding £2.<sup>127</sup> Lastly but not least, all brokers were obliged to register their names and residence at the Main Police Office, in order to obtain a certificate of registration issued by the Bailies or Sheriff Depute.<sup>128</sup>

## THE DEMISE OF THE CITY GUARD

The 1812 Act retained the reduced City Guard, comprising of one lieutenant, two serjeants, two corporals, two drummers and thirty privates with the serving Lord Provost as their Captain. Their more ceremonial role was confirmed in the same section, when it was specifically declared that they were required to 'attend upon His Majesty's Commissioner to the General Assembly of the Church, the Magistrates and Town Council, and the Supreme Courts of Justice, upon all necessary Occasions'. Nevertheless they also had the general brief to support the new Police, and to this end they could be directed by the Lord Provost,

the Sheriff Depute or the Superintendant, to march to any place within the city, leaving only such guards or centinels as were absolutely necessary within the Ancient Royalty.<sup>129</sup>

The 1812 Act made changes to the annual financing of the City Guard. Whereas under the 1805 Act, the City Guard was armed and clothed at the expense of the Town Council, and had wages paid from a general fund raised under the 1805 Act, under the 1812 Act, all the expense was met by the Town Council. As compensation, the 1812 Act required the General Commissioners to make payment of £500 to the Town Council at Martinmas yearly during the continuance of the Act. The 1812 Act also continued the financial agreement for extinguishing the previously accumulated debt, set forth in 1805. The payments of £699-12-9d, collected under trade stent assessments, had been paid to the Town Council from Whitsunday 1806, and the nine annual payments ended on Whitsunday 1814.

The effectiveness and efficiency of the City Guard could not be considered by the General Commissioners and thus no reference was made to the City Guard during the enquiry into the 'hogmanay riots'. The role of the City Guard after 1812 continued in the same manner as that arranged under the 1805 Act. Based in the Guardhouse in the Old Tolbooth, they not only guarded prisoners but undertook three specific patrols throughout parts of the city each night. However the City Guard were clearly perceived as a spent force. After riots in the city on 5 June 1815 which left one serjeant dead and several officers severely wounded, Sheriff Depute Rae called a special meeting to consider what payments should be made to the injured and family of the deceased, but also to decide how expedient it was to continue the City Guard. Sheriff Depute Rae submitted that the City Guard 'had not lent that aid to the Police Establishment, which it was not only their duty, but which had they been so inclined, was in their power to have afforded'. The meeting unanimously resolved that it was highly expedient that the City Guard be totally abolished and for this purpose appointed a Committee comprising of the Sheriff Depute and six others, to meet with the Lord Provost and Town Council.<sup>130</sup>

Although originally intended to be contained in the 1816 Act, it was a provision in the 1817 Act which discontinued the City Guard after Lammas 1817. The General Commissioners made no reference to their demise, but the *Scots Magazine* noted that 'this ancient body,



the only one in British dominions on the same principle', was unceremoniously disbanded on 15 November 1817. Whilst the sum of £500 was no longer payable to the Town Council, the termination provision reserved 'their ancient Rights, to raise and maintain, out of the ordinary Funds of the Community such Town Company, if they shall see fit'.<sup>131</sup> No new Town Company was raised, for as Cockburn later observed 'the police had made them useless'. However as Cockburn explained their role of guarding prisoners during trials was missed for:

One of these stern half-dotard warriors used to sit at each side of the prisoners at the bar of the Court of Justiciary as guard; with his huge hat on his old battered head, and his drawn bayonet in his large gnarled hand. They sat so immovably, and looked so severe, with their rugged weather-beaten visages, and hard muscular trunks, that they were no unfit emblems of the janitors of the region to which those they guarded were so often consigned. The disappearance of these picturesque old fellows was a great loss. After their extinction the Justiciary prisoners were put under the charge of police officers, a change which most of the judges lamented.<sup>132</sup>

## THE CITY HIGH CONSTABLES

The High Constables of the City of Edinburgh continued their supernumerary role of assisting the Police appointed under the 1812 Act. The Society of High Constables appear to have vigorously applied the system of triennial rotation and lists of persons appointed were submitted to the Lord Provost for approval. Membership of the Society remained at sixty until December 1820 when approval was granted to increase their numbers to one hundred. Increased membership did not last long, for a Town Council Committee appointed in July 1822 to examine where savings in expenditure could be made, recommended that the Society be reduced to their original sixty, with their allowances reduced accordingly.<sup>133</sup>

Although the High Constables were under the direct control of the Lord Provost and Bailies, they were deployed as 'special' constables to supplement the new Police whenever street disorder was threatened or occasioned. Thus they were called out along with a military detachment from the Castle during the evening of 18 August 1812, to quell a riotous crowd

in the Grassmarket who had seized meal carts and attacked the homes of meal-sellers after an extraordinary rise in the price of oatmeal.<sup>134</sup> Street disorders were common during and after public assemblies, therefore the practice continued to call out High Constables during the King's birthday and hogmanay celebrations and on the occasions of public executions.

Although the Society of High Constables continued to elect office-bearers, there is no evidence to suggest that any of them attempted to exert influence on the General Commissioners in respect of the role of the High Constables. Being burgesses, they had the potential to be elected as a Residential Commissioner and no doubt many were, but there is only one recorded occasion where perhaps a conflict of interest emerged. John Stenhouse, a baker who was Moderator of the Society of High Constables in 1817 and 1818, and who was elected General Commissioner in July 1820, led a faction of elected General Commissioners with Whig tendencies who challenged the ascendancy of the Lord Provost and the Sheriff Depute, by seeking the dismissal of Superintendant Brown. However, given the circumstances which are considered later, his opposition was more an expression of political challenge to the non-elected Tory Commissioners, rather than calling in question the effectiveness and efficiency of the new Police.

## TOWN OF LEITH

Whilst the new Police in Edinburgh were considerably increased after the 1812 Act, the Leith Police Commissions, despite the introduction of the 1806 Act for Leith, continued to adopt a very low priority towards the introduction of a more effective Police. Under the 1806 Act which remained in force until 1827, annual elections of Commissions were held each December but the number of heritors voting fluctuated for no apparent reason other than apathy. From a high of one hundred and ninety-one heritors attending the December 1808 elections, only eighty-eight heritors attended the 1812 elections and similar numbers yearly thereafter until another high of one hundred and twenty-eight heritors attended the 1822 elections.<sup>135</sup>

The method of electing thirty-five Commissioners annually, six from each of four Incorporations, six from the heritors of South Leith and five from the heritors of North Leith, remained the same. In January each year, the elected Commissioners along with the three Bailies of Leith were divided into territorial Ward Committees and also into functional Water, Paving, Lamps, Dung and Appeal Committees. This Committee structure essentially referred to the main business and concerns of the Leith Commissioners as detailed in the minute books, and a new Committee for Superintending the Watching Department was not created until January 1817.<sup>136</sup>

By 1812, annual assessments of 5% were agreed for both North and South Leith and continued at that level for the remaining period of the 1806 Act. After a revaluation in July 1813 which increased the yearly rental value for Leith from £7,887 to £14,995, income and expenditure levels did not appreciate significantly. Whilst over 1813-1814 income of £3,133 was received and £3,060 was discharged, over 1821-1822 income of £3,199 was received and £3,860 discharged.<sup>137</sup> The reluctance to change was such that a Hugh Veitch, who was appointed Clerk to the Commissioners in January 1809 was re-appointed annually until his retirement in January 1827.<sup>138</sup>

During April 1812, Intendant James Denovan on a salary of £100 per annum had an Assistant Intendant Robert Craig appointed on a salary of £45 per annum. However at that time, the establishment at Leith still only comprised of John Ross, paid 12/- weekly full time and in uniform but with particular responsibility for overseeing water services, and the four Town Officers who executed the Court orders of the Leith Bailies. Other than direct Intendant Denovan in October 1812 to have the Police regulations reprinted and circulated amongst inhabitants, no details of any proactive measure by the Leith Commissioners to prevent or detect crime are found in the minute books. More importance was attached to lighting and cleansing, for the scavengers received 10/- weekly and were under an Overseer David Key who received 15/- per week in 1812.<sup>139</sup>

Although Intendant Denovan had his own rented office, in October 1812 he reported to the Commissioners that a watchhouse and lockuphouse were very much needed separate from the Court. Progress on this requirement was slow, for although the location is not minuted,

£370 was spent refurbishing a watchhouse in 1815-1816.<sup>140</sup> In April 1813, the Commissioners considered the need for watchmen but decided this was 'impracticable for want of funds.' In July 1813, Bailie Cassels reported that an ex-Serjeant of the Guard had been employed to undertake duties at the Courthouse.<sup>141</sup> Lack of progress in developing the Police service eventually frustrated Intendant Denovan for in a letter dated 10 January 1814 to the Leith Commissioners he intimated his intention to resign in three months unless 'a regular Police is to be established.' His resignation was accepted and after acting from April, Robert Craig was appointed full time Intendant of Police in July 1814, at a salary of sixty guineas per annum.<sup>142</sup>

With a reduced salary to Intendant Craig, in July 1814 the Commissioners agreed to the appointment of two assistants, to be constables in uniform, with particular responsibilities for the watchhouse and lockuphouse. When the Commissioners unanimously re-elected Robert Craig as Intendant in July 1815, they granted an £80 salary per annum and appointed four full time night watchmen, each with greatcoat bearing a badge with 'Leith Police' thereon.<sup>143</sup> By July 1817, the two office based officers sought an increase in wages because their hours of duty at the watchhouse between six o'clock each morning and nine o'clock each evening disadvantaged them from supplementing their wages like the night watchmen.

The reluctance of the Leith Commissioners to engage regular Police officers did not go unnoticed. In January 1816, the Commissioners considered a letter from Lord Provost Arbuthnot and a copy of the resolution of the Edinburgh Committee established to obtain an amendment to the 1812 Act. After complaining of:

The inconveniences resulting from the bounds of Police not including the Town of Leith, whereby a number of offenders take up residence in that town when banished from the City;

the Edinburgh Commissioners offered Leith the opportunity, at 'trifling expense', of having a Watching Department. The Leith Commissioners appointed an ad hoc watching Committee to examine the requirement for watchmen and to consider the introduction of a Police tax.<sup>144</sup>

Pressure was kept on the Leith commissioners. In April 1816, Bailie Kincaid Mackenzie from Edinburgh chaired the meeting and urged review of the state of Police in the town and confirmed the availability of a £2,000 bond from Edinburgh secured by the Toll funds on Leith walk. But a month later the Leith Watching Committee reported that:

The Town was as quiet as could be expected from a seaport of its extent, especially at the conclusion of War..... and that depredations particularly on shipping, so much complained of, had received a check by the apprehension of a number of idle and disorderly young men who had no honest means of livelihood.

It recommended that no more watchmen were required. Whilst accepting this recommendation, ironically at the same meeting the Commissioners considered a letter from a group of inhabitants in Leith complaining of the lack of Police.<sup>145</sup>

It appears that it was only a matter of time before the Leith Commissioners would have to appoint watchmen in addition to the Leith Society of Constables. Although the decision is not specifically minuted, fifteen night watchmen were appointed in January 1817 when the standing Committee for Superintending the Watching Department was constituted.<sup>146</sup> By October 1818, the Watching Committee agreed to meet regularly on the first Monday in each quarter, and thereafter submitted reports to the Commissioners. Thus in January 1819, the Watching Committee reported that the convenor and another member had 'visited the different parts of the Town on the morning of 25 December last, and found all the watchmen attentive to their duty and sober.'<sup>147</sup>

Employing watchmen added to the annual expense of the 1806 Act. Whilst their wages in 1814-1815 amounted to £95, this had risen by 1816-1817 to £421 and by 1819-1820 to £636 which was about the same as that spent on lighting and cleansing services. No reference was made in the Watching Committee reports to the deployment of the Leith Police. They appeared to have only the watchhouse as a base and although reference was made in the annual accounts to having duty points throughout the town, only one watchbox was purchased in 1819/20 for £6.<sup>148</sup> The only other mention of the perils of the Leith Police was in October 1821, when a Watchman David Ross drowned in the docks and his widow was awarded £5.<sup>149</sup>

The role of the Intendant of Police for Leith continued in much the same fashion after 1812. Whilst he submitted some reports to the Commissioners when asked, there was no regular reporting, other than personal attendance before the various Committees appointed each January. Remits to attend to specific complaints were common and these more often than not concerned defects in paving, lighting or cleansing on the streets. Occasionally prolonged initiatives were required as in April 1818 when 'typhus fever was raging' and extra effort was made to keep streets and closes clean.<sup>150</sup> After the night watchmen were appointed in 1817, he became more concerned with watching services. In April 1819, Intendant Craig died. When the post was advertised, there was a motion to re-appoint James Denovan. However the motion was defeated and the Commissioners appointed a Lieutenant William Ross from a military background as Intendant at a salary of £150 per annum.<sup>151</sup>

The obstinate position of the Leith Commissions in response to the overtures from Edinburgh to introduce a new Police, is evidenced by their dilatory approach to amending the 1806 Act. Having missed one opportunity in 1816, in October 1818 a remit was given to the Watching Committee to draft a new Police bill. The bill was considered in detail by the Commissioners in July 1819 and various alterations approved, but it provoked unexplained dissent from the Trades Incorporation and went no further. In April 1820 the Commissioners appointed a Committee comprising the Bailies and the Masters of the four Incorporations to revise the Police bill. To assist in this process, three hundred copies of the 1806 Act were obtained and circulated to interested parties. By October 1820, the Committee lamented that Edinburgh was not offering Leith a chance to be included in their Police bill, and used this excuse to abandon their plan.<sup>152</sup> The question of obtaining a new Police Act did not arise again until 1827, when the Leith Commissioners had another opportunity to demonstrate their indignation at Edinburgh Town Council.

In 1811 the Society of Leith Constables increased from fifteen to twenty-three and were under the direction of the Bailies of Leith. Like their counterparts in Edinburgh, the Leith Constables were unpaid and being burgesses held other full time employment. Of the Moderator Constables known, viz.; John Pear (1810); John Beadie (1812); Walter Bruce

(1814); John Mackie (1818) and James Scarth (1821), the latter two were also Resident Magistrates with obvious influence within the Leith Commissioners. The Society adopted the title of Leith High Constables in 1820 and appointed their own Moderator and secretary annually.<sup>153</sup>

The Society of Leith Constables performed the same range of duties as the City High Constables and increasingly had a ceremonial role. They were responsible for drawing up militia lists annually upon a precept from the Lieutenancy, and they also collected the 'locality money' in connection with the billeting of military forces. In 1813, Moderator Constable John Peat obtained a set of standard weights from London and these were used extensively by the Society of Leith Constables to check weights and measures within Leith markets. It was also the practice at that time to place arrested offenders in the custody of the 'Serjeant of the Guard' and a 'committal book' was kept for that purpose. The local Procurator Fiscal prosecuted before the Court and the constable was required to attend at ten o'clock the following morning to provide evidence.<sup>154</sup>

## PARISH CONSTABLES

Records for Justices of the peace in quarter sessions in Edinburghshire are extant from 1810 and records for Commissioners of Supply are extant from 1813. Although meetings were chaired by the Sheriff Depute, the sederunt books of the Commissioners of Supply make no reference to Police reform until 1840. Similarly, the Sheriff Depute attended meetings of JPs in quarter session, but the first mention of 'county constables' is not made until 1819. In October 1819 after five petitions were received from persons seeking office as constables, all were remitted to a Law Committee to verify their good character. A report from the Law Committee in October 1820, recommended that in future:

No person shall henceforth be admitted to the Office of a Justice of the Peace Constable unless he shall find sufficient security in two sureties to the satisfaction of the Committee in the sum of £25 for their good behaviour

and failure to do so within one month would result in existing constables being struck off the Roll of Constables. Unfortunately no other information about the numbers or role of the Parish Constables is revealed prior to this date.<sup>155</sup>

## LAW AND ORDER

Three discernible themes on law and order emerge over the period 1812 until 1822. The first concerns the continuing attitude and perception on the need to eradicate vagrancy; the second concerns the continuing commitment by the new Police under the new summary procedure to prosecute in the public interest a range of petty crimes and 'welfare' offences; whilst the third concerns the perception of a growing prevalence of serious crimes in the community, particularly murder and robbery. The three themes or concerns are inter-related inasmuch as they are linked to socio-economic conditions and a perceived lessening in morality and community ties. Understandably in the absence of analytical thought, the three themes or concerns can appear congruous and represent a breakdown in law and order which can only be kept in check by an independent force acting in the collective public interest in personal safety and well-being.

In February 1813, the reconstituted Society for the Suppression of Begging published a report requesting the Magistrates to enforce the laws against vagrancy under the 1812 Act. This was aimed at assisting the needy and of suppressing:

Sturdy and idle beggars who are the greatest nuisance to Society and by Whom, it is well ascertained, that most of the petty delinquencies which render property insecure are committed.

The new Society which was funded by voluntary subscription had a Management Committee which included a president, two secretaries and treasurers and twenty directors who were divided into four committees. Importantly the Society appointed thirteen recorders to oversee the twenty-six Wards detailed in the 1812 Police Act. Their function was to process applicants for relief, with genuine mendicants receiving a 'ticket of reference' entitling food and shelter.<sup>156</sup>

The first annual report of the Society for the Suppression of Begging published in January 1814 claimed that the streets were almost entirely cleared of 'the idle and profligate who made a trade of begging' The recorders had been overwhelmed by examining six hundred and twenty-two cases which identified ninety-nine males and four hundred and fifty-six women as genuine claimants. Of these examined, sixty-eight persons did not call back for



assistance. The Society, which had its office in Parliament Square and a soup kitchen in Portsburgh, warned that despite the success it would be impossible to eradicate the practice of street begging for 'beggars would still brave the vigilance of the Police.'<sup>157</sup>

The subject of 'common begging' was however discussed by the General Commissioners in January 1815 after the problem had been substantially reduced through joint action of the Society and the Police. The Watching Committee report in January 1815 :

Congratulated the Commissioners on the removal of one of the greatest evils with which the public was ever harassed, namely that of common begging. From a knowledge that every real object of charity has now the necessary means of subsistence secured by the Society lately instituted for the suppression of Begging, the Police Officers no longer feel any scruples in apprehending or the Magistrates in punishing any person found begging in our streets and this the whole tribe of beggars with which this City was so lately infested has now disappeared.<sup>158</sup>

However this visible reduction in the number of begging poor in the city was only a temporary respite, for another scarcity of food was soon to follow which would ensure the resurgence of vagrancy.

On the theme of summary prosecution in the public interest, the Superintendant under the 1812 Act was deemed the Procurator Fiscal for the purpose of the initiating and presenting actions, and for recovering penalties or enforcing punishments authorised by the Magistrates. Having a vested interest in both prosecution and judgement, the role of the Superintendant under the 1805 Act was widely criticised as being contrary to the principle 'nemo judex in sua causa'. The 1812 Act removed the judicial authority from the Superintendant and, although he was still involved in legal prosecution, essentially his role changed. The new role in prosecuting petty common law crimes and statutory offences dominated his working day and hence the lieutenants were allowed to prosecute in his absence.

The judicial authority to determine petty common law crimes and statutory offences committed under the 1812 Act, reverted to the Bailies as Magistrates and to the Sheriff

Depute. To assist with the additional duties imposed on the Magistrates, the same judicial authority was granted to the four old Bailies of Edinburgh so long as they enjoyed office by the sett.<sup>159</sup> Rather confusingly, the Bailies sat as Judges in their own Bailie Court as well as the Police Court under the 1812 Act. Whilst the Bailie Court dealt mainly with 'weights and measures' fraud offences, detected by the City Constables and prosecuted by the Procurator Fiscal, from 1812 onwards, a Bailie also took turn each month in the Police Court dealing with petty crime and other 'welfare' offences detected by the new Police and prosecuted by the Superintendent. Importantly the new summary form of procedure which was one of the main legal innovations of the 1805 Act, was retained in the Police Court with maximum penalties being a £10 fine, £3 damages (if concluded for) and imprisonment in either the Tolbooth or Bridewell not exceeding sixty days.<sup>160</sup>

Although there was an emphasis on the prevention of serious crime in the minuted debates of the General Commissioners, the Watching Committee reports between 1812 and 1822 also referred to the increasing number of petty common law crimes and statutory offences which were prosecuted by Superintendent Brown. The increased level of prosecutions, particularly in relation to 'welfare' offences would have a discernible impact towards improving the general safety and well-being of the inhabitants and the quality of life in the city, however in the context of a preventive Police, the recurring nature of these offences could not be satisfactorily explained at the time. Figure 4G shows the dramatic rise in the number of persons prosecuted in the Police Court, over the period 1812 to 1820.

**Figure 4G - Number of Person Prosecuted in the Police Court 1812-1820**

Period	Number of Persons
August 1812 to December 1812	854
1813	2,857
1814	3,453
1815	4,727
1816	4,283
1817	4,577
1818	5,056
1819	5,409
January 1820 to August 1820	3,309

Source: E.P. Minute Book (1819-1821) *ibid.* p222 referred to by Sheriff Duff in his Reason For Protest document.

Although the number of prosecutions in the Police Court after 1812 are known, details of the types of offences are not available. The importance of such an increase in summary prosecutions is not so much evidence of an increase in crime, but more an increase in the effectiveness of the Police to impose a new civil order. Whilst the Police Court under the 1805 Act kept detailed records in Court Books, all that survives after 1812 are accounts of fines made on single sheets of paper. Thus an account of fines recovered in the Police Court from Whitsunday to Lammas (i.e. 13 May until 1 August) 1820, show the name of the accused but no details of the charges, and totals the fines over that period to £51-19-6. Yet another account of fines and damages for breaking street lamps from 25 April to 15 May 1820, reveals thirty convictions raising £9-19-0.<sup>161</sup>

The scale of summary prosecutions for petty crimes and offences which was almost non-existent before 1805, can only be appreciated when comparison is made with the volume of prosecutions for serious crime. Unfortunately Sheriff Court records for the period are not extant, and records of the Lord Advocate Department were only regularly kept from 1812. Figure 4H shows the number of persons prosecuted for serious crime between 1812 and 1822 in Scotland and within Edinburghshire which is included in total. The total number of persons prosecuted were greater than the number of prosecutions, for many cases involved multiple accused.

**Figure 4H - Number of Persons Prosecuted for Serious Crimes (1812-1822)**

Year	Edinburghshire	Scotland
1812	106	296
1813	12	288
1814	20	155
1815	19	213
1816	22	132
1817	34	259
1818	35	379
1819	49	490
1820	73	620
1821	86	545
1822	87	480

Source: Extracted from records of the Lord Advocate Department 1801-1819 and 1820-1825 - See SRO AD14

The extraordinarily high number of persons prosecuted in 1812 in Edinburghshire included sixty-six persons arrested in connection with the 'hogmanay riots'. Nevertheless after 1812, there was a steady increase in serious crimes prosecuted over the period.

The third theme concerning the growing prevalence of serious crime in Edinburgh is the most difficult to evaluate. The numbers of persons prosecuted for such 'atrocious and outrageous' crimes shown in Figure 4H were relatively small compared with the number of persons prosecuted for petty crimes and offences shown in Figure 4G, yet the contemporary perception and concern about serious crime lay deeper than newspaper accounts. After the 'hogmanay riots', all the Incorporated bodies in the city conjoined with the Town Council on the need to establish an effective Police. Thus in their first annual report in July 1813 the General Committee commented that:

At a time when the greatest enormities had been committed on our public streets, when gangs of Ruffians held their meetings within its bounds almost without fear or control: and when the personal safety of the Inhabitants as well as the security of their property was thus rendered worse than precarious. It was at this critical junctive that the constituted Bodies within the City of every description, loudly *called for an efficient Police at whatever the expense.* (italics added)<sup>162</sup>

The General Commissioners took the view that the new Police and the system of police in the city also had a beneficial effect in the surrounding landward areas outwith the jurisdiction of the 1812 Act. Referring to a number of cases of persons arrested in the city for serious crimes committed outwith the city, the Watching Committee Report in 1815 concluded:

It must be satisfactory to the Commissioners thus to know that the good effects of the system have not been confined to the Metropolis but have in some degree productive of benefit to the County at large.<sup>163</sup>

Against these pious hopes, contemporary newspapers and major periodicals continued to feature the more serious crimes coming to notice. As sign of perhaps increasing numbers of cases, rather than changing public expectations, the *Scots Magazine* at the end of 1817

replaced its *Scottish Chronicle* with a *British Chronicle* section and as a result, the hitherto detailed accounts of High Court trials were reduced to extracts. Nevertheless the following High Court trials provide an insight into the abilities of the new Police.

In June 1813, John McDonald (19 years) and James Black (18 years) were convicted of murder and robbery at Corstorphine, Edinburgh where they were later executed. On the 12 May 1813 they shot dead a blacksmith and robbed him of his watch. Serjeant Major Andrew Inglis was informed of the incident about two o'clock in the morning and after informing the Superintendant he was despatched to the locus to make enquiries. Whilst the deceased was taken to the West Port Guard Office for medical examination, Inglis ascertained a description of the accused (Black had a lame leg) and apprehended them drinking nearby. After they admitted the crimes at judicial examination before Sheriff Depute Rae, two sheriff officers took McDonald to a location near Blackhall and recovered the pistols used in the crime.<sup>164</sup>

In July 1814, James McDougall of no fixed abode was convicted of uttering forged notes at Salton, Haddingtonshire and in a tailor's shop in Edinburgh and he too was later executed. The Police in Edinburgh had arrested him on 22 January 1814 still in possession of twenty-two forged Bank of Scotland £5 notes.<sup>165</sup> In December 1814, Irishmen Thomas Kelly and Henry O'Neil were convicted of three robberies, two in Haddingtonshire and the third at Braidburn near the city limits where they were later executed. Serjeant Major Inglis and Serjeant McKenna were responsible for the initial arrest of Kelly in his West Port lodging house and the recovery of the stolen watch. The Court praised the Police and the Sheriff Depute for the initial detection and further enquiry which linked both accused to the three robberies.<sup>166</sup>

In January 1815, two locals, Thomas Pennycook and Alexander Knight, both 20 years, were convicted of robbery on 7 December 1814 and later executed. They had attacked two men from Musselburgh passing through Portobello and after stealing their horse they were arrested by the Police trying to sell it in the Grassmarket.<sup>167</sup> In November 1816, local John Black alias Waters was convicted of robbery near Grange Toll where he was later executed. Evidence revealed that the victim was a farmer making his way home when he

was struck with a spar of wood and robbed of a watch and a £20 banknote. Following a sighting of the accused shortly after the crime by a night watchman, Lieutenant Andrew Inglis traced Black still in possession of his cart. The 'spar of wood' left at the crime scene was perfectly match with a broken spar on the cart and after good 'detective' work the stolen watch was recovered having been sold through two persons.<sup>168</sup>

Other capital convictions for crimes in the city without specific reference to good Police work include that of David Thomson in February 1812 for five thefts by housebreaking throughout the city; Robert Johnston in November 1818 for robbery on a gentleman using a firearm at St Patricks Square and stealing £360; and James Whiteford in August 1819 for hamesucken at Libberton Wynd.<sup>169</sup> Having the High Court of Justiciary in the metropolis meant that other capital trials and executions took place in Edinburgh. The trial of James McCoul alias Moffat and two others in July 1820 for the Paisley Bank robbery, Glasgow in July 1811 has already been mentioned, but another unusual case was the trial of Peter Heaman (Swedish) and Francis Gautier (French) at the High Court of Admiralty in January 1822. They were convicted of piracy and the murder of two seamen on a vessel at Leith and were executed on Leith Sands.<sup>170</sup>

Policing public executions in Edinburgh was in itself problematic for the custom was that thousands of inhabitants would throng the streets to witness the spectacle. Usually with a strong military, City Constable and Police presence, the crowd could be controlled. Unfortunately the execution of Robert Johnston mid afternoon on 30 December 1818 went disastrously wrong and a major riot occasioned. The scaffold had been erected next to the Main Police Office at St Giles, but on account of the rope being too long when the drop was made, his toes still touched the gallows which resulted in a tortuous strangulation. After a few minutes of half suspended struggle, the crowds threw stones at the Magistrates and Police and briefly rescued Johnston. The Police recovered their ground and pulled the unconscious Johnston into the Police Office. After being revived by medical assistance, he was brought out again thirty minutes later and properly hanged. During the riots that followed thereafter nearly two hundred panes of glass were smashed in the vicinity.<sup>171</sup>

Apart from a meal riot during the evening of 18 August 1812 in various parts of the city and the rioting which followed the execution of Robert Johnston in December 1818, there is no evidence of any other major breakdown in public order in the city or remaining shire between 1812 and 1822. After the special Commission of Oyer and Terminer was appointed in June 1820 to hear all the high treason trials in Scotland, political agitation elsewhere in Scotland again subsided.<sup>172</sup>

## THE DILEMMAS FOR POLICE UNDER THE 1812 ACT

From the evidence available between 1812 and 1822, only the City of Edinburgh continued to develop the modern Police and system of police. The town of Leith made no similar reform or development in that direction despite having enabling legislation, and in the remaining shire, no attempt whatsoever was made to change from the traditional Parish Constables system. Given the focused development of the new Police in the city, it is hardly surprising that dilemmas arose there, and the main dilemma was that of ensuring the accountability of the Superintendant and the Police against the emergence of the new form of representative democracy in local government.

For several years after his appointment in 1812, Superintendent James Brown enjoyed the unequivocal confidence and support of the General Commissioners. In January 1815, the Watching Committee declared their satisfaction that policing had 'been conducted with perfect propriety and attended with every degree of success that could be looked for'. Furthermore with regard to the conduct of the Superintendent, 'the respectable part of the community are so fully satisfied of the zeal, prudence, temper and good sense which has been so uniformly conspicuous in the discharge of the many important, yet often irksome and distressing duties to which he is called to attend'. A year later the Watching Committee believed that 'the success that has thus continued to attend the Police is undoubtedly chiefly to be ascribed to the nature of the system itself and to the zeal of the Superintendant'.<sup>173</sup>

The General Commissioners' confidence in the Superintendent began to be eroded after the brooms scandal which came to light in October 1819. In December 1819, Principal

Clerk John Murray was censured for his omissions in the 'brooms' scandal but was allowed to continue in office for the time being. At the same meeting, Superintendent Brown informed the General Commissioners that he had learned 'of certain abuses as to fictitious men being kept on the List of Policemen' with pay having been drawn for them. The implications of this statement were not fully appreciated, for the General Commissioners routinely nominated a Committee to enquire into the establishment receipts and expenditures and at their next meeting in January 1820 appointed another ad hoc Committee to enquire into the 'Statement of the Superintendent'.<sup>174</sup>

These two ad hoc committees were obviously destined to cut across each others path and this was acknowledged at the next meeting in April 1820. The dilatory nature of enquiries by unwieldy ad hoc committees is evidenced by the fact that the full extent of what was to be a second major scandal in the history of the new Police took many months to emerge. The Committee on the Statement of the Superintendent reported that they had obtained from an independent accountant a very long and valuable report on the accounts kept by Murray, and on the evidence available, recommended his suspension without salary until further enquiries were complete. This suspension was approved by the General Commissioners before they considered a major report from the Committee on Receipts and Expenditure. The report came to the conclusion that the accounts of the Collector Paul Baxter were accurate. However having investigated Murray's accounts over the same period, the Committee declared:

The irregularities seem to have been so great that your Committee has no hesitation in approving the measure recommended by another Committee (i.e. the suspension of Murray). From the variety of matter which has followed upon the attention of the Commissioners having the painful investigations which have arisen out of this subject, *it must be evident to all that the system has not been furnished with sufficient checks upon the conduct and intromissions of the individuals employed. It appears quite demonstrable that no individual could accomplish all the duties which Mr Murray took upon his own shoulders besides performing the duties in the Police Court and as Clerk to the Committees whenever required.* (italics added)



Such a conclusion was a clear indictment on the failure of earlier Finance Committees to identify shortcomings in financial accountability. As a consequence of these findings Paul Baxter was also appointed as Treasurer as well as Collector.<sup>175</sup>

When the General Commissioners met later in April 1820, a clearer account of the new scandal began to emerge. The Committee on the Statement of the Superintendent reported that Principal Clerk Murray had admitted establishing a separate fund without the authority of the Commissioners, by falsifying certificates to show a greater number of Police officers than actually was the case. Murray had obtained the pay for the 'fictitious' officers from the Collector. He was immediately dismissed and assistant clerk Alexander Callendar, was appointed Principal Clerk.<sup>176</sup>

John Murray had anticipated this outcome, for he immediately lodged an eight page letter with the General Commissioners, intimating his resignation. He took the opportunity to apportion as much blame as possible on Superintendent Brown for the dilemma he now found himself in. Thus in respect to the establishing of a separate fund, Murray stated:

In the outset it appears most distinctly that the first idea of creating such a fund did not originate with me, but that on the contrary, to the extent of the pay of one man at least (and in the beginning there was no more) I had Captain Brown's express orders to do everything which I did. This was so far back as 1814: and from that period therefore, down at least to March 1817, when Captain Brown says he desired the fund to be discontinued, I confessedly acted by his authority, not only in framing the incorrect Returns of the strength of the Establishment on which alone the pay could be retained, but likewise in expending and applying every shilling of the fund which was thus raised.

By way of evidence to support his claim Murray further revealed that Captain Brown '*had also in his service as a private spy a man of the name of Rankine at 10/6d per week.*' (italics added) who was not on the regular strength of the Police. Disclosing also that Brown had been advanced between £200 to £300 over a period of time 'for the purpose of enabling him to take distant journeys on the Public Service', Murray concluded that Brown must have known that the expenditure incurred was more than the pay of one watchman.<sup>177</sup>

The internal enquiries conducted during the remainder of 1820 by the Committee on Receipts and Expenditure and the Committee on the Statement of the Superintendent, continued to reveal other irregularities and financial mismanagement within the establishment and the inevitable outcome was a greater scrutiny of the decision making of the Superintendent. It was against this background that the Committee on Receipts and Expenditure reported to a special meeting of the General Commissioners in May 1820, that Captain Lieutenant Bremner had allegedly handed over £10 to the widow of Lieutenant Hume who died in 1818, instead of the authorised £20 for which there was a receipt endorsed by John Murray. The outcome as already mentioned was the 'highest censure' for Bremner because there was insufficient evidence to prove any fraud had been committed.

The meetings of the General Commissioners which followed during 1820 were naturally dominated by discussion over the further revelations of the Committee on the Statement of the Superintendent. After a protracted enquiry including the obtaining of statements of explanation from Superintendent Brown, the Committee reported back to a meeting in June 1820 that:

The reason given by Captain Brown for having authorised such a practice is the necessity which he early felt of having the *command of a small fund for the purpose of rewarding secret services without which he was of the opinion that an efficient Police was unattainable*, at least in the infancy of the Establishment. (italics added)

The Committee then explained that they were inclined to believe the explanation of Superintendent Brown that this practice continued to March 1817 when Murray was instructed to cease the fund. Instead of ceasing the practice of continuing to draw the wages of one day watchman who had been discharged in 1814, Murray managed to extend the fraudulent scheme when shortly after March 1817, the Superintendent instructed the discharge of two day and three night watchmen. Murray had obtained the requisite signature of the Superintendent on the pay bills before wages were obtained from the Collector, and of course he handed over to the pay serjeants only the amounts required, retaining the extra sums which he entered in a separate cash book.<sup>178</sup>

The Committee submitted that the conduct of Superintendent Brown was highly irregular and improper, but were unable to agree on whether he was privy to the extension of the practice. Nevertheless they were of the opinion 'that the Superintendent having himself originated this practice, was thereby most imperatively bound to see that his instructions for its discontinuance were carried into effect.' Finally the Committee commented upon the need for Superintendent Brown to travel outwith the city in pursuit of criminals. Noting that £293 had been made in payments to Superintendent Brown in respect to journeys as far as Dumfries, Glasgow, Newcastle and even London, they were of the opinion:

That much advantage might be expected to ensure, from a separate officer being appointed who should chiefly be under the direction of the Lord Provost, the Lord Advocate and the Sheriff of Midlothian and who could be dispatched by their authority upon such missions.

Although the minute books do not reveal why Superintendent Brown travelled so widely, other sources have revealed that he was tasked by Lord Advocate Rae (previous Sheriff Depute) to help investigate those involved in the Radical War 1819 - 1820 and assist with the co-ordination of Glasgow Police after the treason trials.<sup>179</sup>

Further reports from both these ad hoc committees were considered in July 1820. Archibald Gibson W.S. addressed a meeting in defence of Superintendent Brown in relation to the charge of sanctioning the retention on the pay lists of one fictitious name for:

He thought it his bounden duty to state his distinct recollection of the Superintendent informing the Commissioners of Police (of whom he was one at the time) at a public meeting in the year 1814, of his having instituted this fund, in the manner before mentioned for rewarding petty secret services, and assigning as a reason the necessity of having a trifling sum of this description at his disposal for giving on the spur of the moment small gratuities to persons in a low situation of life who might aid the Police.

A serving Commissioner named William Inglis also supported this contention and both men were under the impression that the practice had been carried on with the knowledge and under the sanction of the Commissioners and particularly Lord Advocate Rae who had been Sheriff Depute at the time.<sup>180</sup>

The observations of Superintendent Brown himself formed a substantial part of the report from the Committee on Receipts and Expenditure discussed at the same meeting. In his explanation for initiating what was termed the 'Daymans Fund' in February 1814, Superintendent Brown claimed that:

A short experience of his office had sufficed to show *that there was a necessity of providing means, for the occasional employment of secret agents*. In the infancy of the Establishment the ordinary officers had not acquired that dexterity and expertness in the performance of their duty, which practice alone can give; and here it was found necessary to employ occasionally a description of agents, who were by no means of an ostensible kind. (italics added)

The central concern of the General Commissioners throughout these investigations into the conduct of Murray and Brown was their accountability for incurring public expense. Making small payments for what was essentially criminal intelligence was generally accepted as necessary and the issue became one of how such payments could be regulated. Indeed the problem of not having 'a fund to procure information' had been recognised by Superintendent Tait and he had specifically referred to this problem in his valedictory address.<sup>181</sup>

## TORY AND WHIG STRUGGLES OVER REFORM OF THE 1812 ACT

Despite the embarrassment for the new Police whilst the investigations of both ad hoc committees continued throughout 1820, it was manifestly clear that a growing split had developed in the ranks of the General Commissioners, between those who basically sympathised with the position Superintendent Brown and those who were determined to have him removed from office. The first indications of the split surfaced in July 1820, when Commissioner William Inglis moved that Superintendent Brown was liable to censure only. Although this motion was seconded, elected General Commissioner John Stenhouse immediately moved that Superintendent Brown being the cause of a very improper practice,

was highly blameable and that the papers connected with the investigation be laid before the Lord Provost, Lord President and Sheriff Depute who had the power of removing him from office. When both motions were put to the Commissioners present, both received fifteen votes. When Sheriff Depute Duff as praeses gave his casting vote in favour of the Inglis motion there was immediate protest. The compromise was an agreement to make the papers public and also seek the opinions of the three 'functionaries' who had the power of dismissal of the Superintendent under the 1812 Act.<sup>182</sup>

The reasoned opinions of the Lord Provost Manderston, Lord President Hope and Sheriff Depute Duff were delivered to the General Commissioners in September 1820. They reported that:

We have attentively considered all the papers laid before us, and are of the opinion that they do not warrant us to dismiss Captain Brown from the situation of Superintendent of Police, or to take any other steps against him, conceiving that the Censure for his irregularity expressed in the Resolution of the Commissioners of Police on 8 July 1820 is as heavy a punishment as the circumstances of the case require, and which Censure we shall convey to Captain Brown.

Thereafter a prolonged struggle commenced between those with Whig tendencies seeking the removal of Superintendent Brown and those siding with the Tory establishment who were against his dismissal. The tactics adopted by the Whig General Commissioners included a motion for a committee to draft a new Police Bill; and yet another motion to remove the office of Captain Lieutenant. The dispute between the General Commissioners deepened with a threat to withhold agreement on the rate of assessment for the year 1820-1821. However when the Finance Committee reported to a meeting of the General Commissioners in November 1820, Sheriff Depute Duff took a tough stance reminding them that 'the duty of the Commissioners was to ascertain and impose the annual assessment without mixing with the question whether the Superintendent ought or ought not to be retained in office'.<sup>183</sup>

It was against this background that Superintendent Brown was called before the Watching Committee in January 1821 to explain the reasons for his dismissal of Lieutenants Bremner and Wilkie. Although he reluctantly acquiesced, the tension and bickering thereafter between Brown and his opponents among the elected General Commissioners manifested itself at every minuted meeting. In September 1821, he was accused of 'resisting' and 'dictating' to the Commissioners over the appointment of James Logan as Inspector for Lighting and Cleansing. The dispute continued throughout 1821 and according to Henry Cockburn the case for the dismissal of the Superintendent became 'a political contest between the elected Whig Commissioners who desired only the power of dismissal, and the non-elected Tories who were instinctively jealous of the growth of popular power'.<sup>184</sup>

The 1812 Act was of course scheduled to be replaced in 1822. When the Committee of seventeen General Commissioners was appointed in October 1820 to prepare the Police bill, there were already signs of tension between the majority group of elected General Commissioners with Whig tendencies and the non-elected General Commissioners led by Lord Provost Manderston, who represented a Tory Town Council. During 1821, the Whig group opposed and challenged almost every suggestion of Sheriff Depute Duff, and harassed him to the extent that he resigned as Convenor of the Watching Committee in October 1821.<sup>185</sup>

The outcome of the hostility between the two sides was that the non-elected General Commissioners withdrew collectively from meetings whilst the dispute continued. The Town Council now led by Lord Provost Arbuthnot, formed their own Committee to draft the required Police bill in consultation with the incorporated bodies in the city. Much to the dismay of the Whig General Commissioners, the Town Council sponsored Police bill had clauses which sought to raise the £10 franchise differentially, according to year rent values in each Ward. This Police bill was presented in Parliament in January 1822 and with subsequent compromise on the franchise became the 1822 Act. The remaining Whig group of about twenty elected General Commissioners met on thirty-nine occasions until compromise was reached in June 1822. They approved their own draft Police bill in October 1821 which in keeping with their own more liberal views sought to:

- retain exclusively the power of appointing and dismissing the Superintendent;
- harmonise the franchise so that all householders subject to rate assessment could vote; and
- retain the provision introduced by section 16 of the 1817 Act that required the annual rate assessment to have the approval of two-thirds of the Commissioners.<sup>186</sup>

The dispute between the General Commissioners soon became public and for the first occasion the *Scotsman* newspaper supported the Whig General Commissioners cause in a feature article January 1822. Entitled 'A Matter of National Interest' the anonymous author outlined the development of the new Police under the Acts of 1805 and 1812 for which there was general support. However the focus and specific support was on the struggle by Whig Commissioners against further restriction of the franchise in the new Police bill proposed by the Town Council and of course on the power of appointment of the Superintendent. It was estimated that of the twelve thousand persons who paid Police rates, more than a quarter were precluded from voting under the 1812 Act and the 1822 Police bill proposals to have a £15 franchise in seventeen Wards and a £25 franchise in nine Wards would preclude about half of those who paid rates. As regards the appointment of the new Police the democratic view promoted was that, 'if the inhabitants of Edinburgh chose to pay for a local police, they have a right, we conceive, to appoint the officers by whom it is to be administered'.<sup>187</sup>

After the Town Council Police bill was presented to Parliament, the Whig group of General Commissioners agreed to forward a Petition of opposition and open a public subscription to promote their own Police bill. This recalcitrant attitude provoked public criticism, but in fact the merits of both bills became subject of intense public debate. Whilst the Whig Commissioners were condemned for their wish to have the power of appointment and dismissal of the Superintendent, the Town Council were criticised for attempting to alter the franchise upwards and for maintaining the property qualification for election as a Residential Commission at different levels for different groups of Wards.<sup>188</sup> As this power struggle over the accountability of the Superintendent to the General Commissioners continued, in April 1822 Superintendent Brown intimated his wish to resign.<sup>189</sup>

After months of disagreement, both sides sought arbiters in Parliament in April 1822.

According to Cockburn:

The parties met in Parliament; where the whole tumult was composed at least on the surface, in a moment. Lord Melville, more candid than his followers, took charge of the case for the Town Council which represented the Functionaries; and James Abercromby for the people. These two at once arranged that the power of both appointing and dismissing should not be lodged in the same party.

Following this settlement and a letter from Lord Provost Arbuthnot, both Committees liaised to adjust the bill going through Parliament. Sheriff Depute Duff and other non-elected General Commissioners returned to meetings in June 1822 immediately prior to the passing of the Act.<sup>190</sup>



## Chapter Five - THE NEW POLICE AND SYSTEM OF POLICE 1822-1833

### BACKGROUND

Between the 1821 and the 1831 census, the total population of the shire increased by 15%. Within that overall increase however, the population of Edinburgh increased by 21% whilst the population of Leith remained static. Over the decade another 24,000 persons inhabited the city. The growth of the city in terms of new building is evidenced by the fact that total rental values used as a basis for the Police rate assessment increased by almost 25% over five years from £357,432 in 1822 to £444,770 in 1827.<sup>1</sup> This growing urbanisation necessitated continuation of the new Police approach in the enforcement of law and maintenance of order, but it also increased the likelihood of other hazards like fire and disease.

The process of industrialisation also continued but there was a significant commercial crisis over 1825 - 26 which greatly affected Edinburgh as a mercantile centre and resulted in the bankruptcy of Sir Walter Scott and the 'ruin of Ballantyne the printers'.<sup>2</sup> However there was a more deep rooted problem over the management of municipal finance. Whilst the city debt had reduced to £70,000 in 1788, it had risen to £400,000 by 1833. Unable to pay interest charges out of its income, the city was declared bankrupt and an Act of 1832 sequestrated its revenues and properties.<sup>3</sup>

There were nonetheless significant transport developments throughout the shire. As early as 1817, surveys had been conducted to form railway networks connecting the shire coalfields with Edinburgh and Leith consumers, as well as the Union Canal. In 1826 work began on a horse drawn line between Dalkeith and the city which was in operation by 1831. In 1830 plans were being made for a railway to connect Edinburgh with Glasgow.<sup>4</sup> The capacity of the port of Leith was significantly increased with the wet docks opened in 1806 and 1817, and by 1830, two new steam ships operated between Leith and London in a journey of sixty hours.<sup>5</sup>

The celebratory nature of Edinburgh society continued unabated. Although there was a third major music festival in 1824, the high point was the Royal visit of George IV in 1822. When the visit was confirmed in June that year, Sheriff Depute Duff oversaw security arrangements whilst Sir Walter Scott was appointed to organise the programme and protocol arrangements. The King arrived on the 'Royal George' yacht at Leith on Monday 12 August but did not come ashore until Thursday 15 August. After receiving the 'Keys of the City' from Lord Provost Arbuthnot the King undertook a number of engagements before departing by Royal yacht on Thursday 29 August 1822.<sup>6</sup>

By 1822, Edinburgh had consolidated the new Police and system of police which essentially set the pattern established later in other burghs and counties throughout Scotland. After 1822 the Superintendent focused more on the control and direction of the Police towards the prevention and detection of crime and offences, and maintenance of public order. Thus in 1822 regulations were made in respect of the recruitment and basic training of officers; in 1828 a new specialist 'criminal officer' was developed; and in 1831 a new standard uniform was reintroduced. Importantly the office of Inspector of Cleansing and Lighting developed separately and whilst the Superintendent and Inspector were each accountable to the General Commissioners, from 1820 onwards, separate minute books were kept for each Department.<sup>7</sup>

The town of Leith despite being under the legal superiority of the city, had a separate but as yet underdeveloped Police in terms of a hierarchical command structure and bureaucratic organisation. However both the Police and the system of police developed significantly after the town gained substantial autonomy under the Municipal and Police Act of 1827. The 1827 Act created a Sheriff Substitute for Leith which enabled more effective law enforcement. A separate Town Council was also created that year and the town eventually became a Parliamentary Burgh with full municipal independence in 1833.<sup>8</sup>

Outwith Edinburgh and Leith, the remaining shire continued with the traditional system of Parish Constables who after 1819 were more commonly termed County Constables. Crime in the rural shire was not on the same scale as that manifest in Edinburgh and

Leith. During deliberations on the financing of a new Bridewell in 1827, it was revealed that of 16,300 inmates over fourteen years, only forty-six persons had been committed by the county Justices.<sup>9</sup> Change to the Police and system of police elsewhere in the shire did not take place until 1840. Even although a public Act of 1833 enabled burghs in Scotland to adopt essentially the system of police in Edinburgh, there was no uptake by the Justices of the Peace or Commissioners of Supply. Thus the Police and system of police in the remaining shire continued in its traditional manner between 1822 and 1833.<sup>10</sup>

### THE 1822 ACT FOR REGULATING THE POLICE OF THE CITY OF EDINBURGH

The 1822 Act came into effect on Monday 24 June 1822. With one hundred and forty-nine sections the act essentially consolidated the 1812 and 1817 Acts continuing the administrative regime, new Police and system of police under General Commissioners. Although the ten year duration of the 1812 Act made the new legislation inevitable, agreement to the bill had only achieved through compromise between the Town Council and the elected General Commissioners as the bill proceeded through Parliament. The renewal of the Edinburgh Police Act became a cause célèbre for the minority of elected General Commissioners with Whig tendencies. Whilst the dispute with the non elected General Commissioners originated over the issue of accountability of the Superintendent, it developed into a contest about the rights of representative democracy in municipal government, following the principle of 'no taxation without representation'.<sup>11</sup>

Although the *Scotsman* newspaper supported the Whig cause for municipal and parliamentary reform, until 1822 it was silent on Police issues and indeed had few reports on cases heard in the Police Court. In the January 1822 article which majored on the proposal to raise the existing £10 franchise to £15 in seventeen Wards and to £25 in nine wards, it was pointed out that:

Tradesmen and persons renting houses from £7 to £15 are the most industrious, virtuous, and independent members of society. Property is no criteria of integrity but a presumption of laxity of principle; and fashionable life still more so.

Indeed the unprecedented attack on the Town Council Police bill which sought to restrict the franchise privilege to the richer classes was expressed as 'a declaration of war between the police and the people'.<sup>12</sup>

The effects of raising the franchise beyond the £10 rental was well illustrated in a published anonymous letter in January 1822. Figure 5A extracted from this letter, shows the number of premises in each of the twenty-six Wards, valued at and above £5 yearly rent for the year 1820 - 1821.

**Figure 5A - Yearly Rents Profile for 1820-1821**

Wards	At £5 under £10	At £10 under £15	At £15 under £20	At £20 under £25	At £25 under £30	At £30 under £40	At £40 under £50	At £50 under £60	At £60 under £70	At £70 under £80	At £80 under £90	At and above £90	Totals
1	114	82	42	28	15	11	5	3	2	1	0	0	303
2	134	81	59	41	26	23	10	6	1	2	0	1	384
3	90	79	66	44	26	35	20	6	8	4	4	9	391
4	113	85	61	65	31	65	29	14	11	16	11	69	570
5	236	144	51	41	18	13	13	8	6	5	0	5	540
6	148	91	46	30	14	17	20	17	2	1	3	1	390
7	90	42	44	32	13	15	15	3	4	10	3	20	291
8	56	69	34	27	31	48	58	44	18	29	43	125	582
9	148	152	79	48	50	45	101	46	46	30	25	106	856
10	49	35	43	40	16	43	39	23	15	22	30	115	468
11	37	32	74	42	21	54	60	33	25	15	23	76	492
12	16	8	16	21	19	36	45	27	20	17	20	118	363
13	161	136	94	82	72	116	48	21	13	8	4	43	798
14	55	57	49	54	50	80	48	33	12	6	11	26	481
15	128	85	70	78	71	114	99	35	42	28	19	45	814
16	244	173	99	28	17	11	13	6	0	1	1	4	597
17	190	139	60	32	10	20	21	18	7	0	1	4	502
18	23	3	8	11	21	31	25	5	13	2	1	2	145
19	136	112	62	21	15	38	15	0	0	0	1	1	401
20	39	41	39	15	21	55	28	22	15	12	8	26	321
21	407	264	217	99	44	90	27	23	7	5	1	5	1189
22	78	45	34	79	25	27	3	2	0	0	0	0	293
23	33	20	8	5	7	16	13	25	11	0	1	1	140
24	109	62	39	17	13	10	14	4	1	1	0	1	271
25	42	18	10	18	10	25	3	0	2	1	1	2	132
26	254	115	55	27	8	21	5	1	1	1	1	1	490
	3150	2170	1459	1023	644	1059	777	425	282	217	212	804	12,204

Source: Anonymous letter to the inhabitants of Edinburgh on the new Police Bill (1822) Appendix I, Edinburgh Central Library.

Whilst 12,204 residents were liable to rates, the £10 rental franchise under the 1812 Act meant that 3,150 residents could not vote. Moreover, the property qualification of £20 or upwards meant that 6,779 (i.e. 55%) residents could not stand for election.<sup>13</sup>

The *Scotsman* newspaper sustained pressure on the Town Council during the intense public debate which followed publication of their proposed Police bill in 1822, and even

mobilised a campaign to support the alternative Police bill published by the Whig led Committee of General Commissioners. As a matter of interest, there was no challenge on the need for a strong Police to protect the public and indeed subsequent articles championed the cause of the working classes who were as much affected by crime as the middle and upper classes. Hence it was stated that:

Nothing besides, could be more wicked or detestable, than to represent the whole class of persons inhabiting houses below £5 as indifferent to the peace of the city. *They are on the whole great sufferers from depredators.*

(italics added)

During February 1822, the *Scotsman* published the resolutions of the Merchant Company, Faculty of Advocates and the Southern Districts who supported the views of the Whig led elected General Commissioners; and advertised ten places to sign petitions to parliament in 'favour of the Commissioners bill'.<sup>14</sup>

Following the settlement between the parties in April 1822 in Parliament, the non-elected and elected General Commissioners appeared to push aside their political differences and come together quickly to ensure the implementation of the new Edinburgh Police Act 1822. Even the *Scotsman* report on the Parliamentary outcome was reconciliatory in the public interest when it took the view:

We are not forward ourselves to impute blame to any one set of individuals. The fault, as we have often said, lies in our system of burgh polity. It is not easy for a self selected few, who have long been as customed to administer the revenues and manage the affairs of a great city at their own discretion, to endure the ideas that other city matters shall be conducted by commissioners freely and fairly elected by the inhabitants.

Although the compromise appeared to be weighed in favour of the Town Council, the Whigs with the assistance of the *Scotsman* had succeeded in retaining the £10 franchise. They had however another decade to wait before it could be introduced to municipal and parliamentary institutions.<sup>15</sup>

During May 1822, Sheriff Depute Duff had separate meetings with the elected General Commissioners and finalised the agreements between the parties. Such was the volume of business thereafter that the combined General Commissioners met on seven occasions during June. With the resignation of Superintendent Brown in May, Sheriff Depute Duff announced to the meeting on 17 June 1822, that the Lord Provost, Lord President and himself had agreed to appoint Captain James Robison of the Royal Fuzileers as the next Superintendent by virtue of section 48 of the 1812 Act.<sup>16</sup>

Detailed consideration was also given to alternative arrangements for management of five coal weighing machines on the main entrances to the city. It had been an offence under the 1812 Act for carts or waggons to carry coals without display of a ticket issued in respect of the certified weights. During the passage of the 1822 Police bill, the proprietors of the shire coalworks had successfully lobbied Parliament to remove similar clauses. Despite this setback, the General Commissioners later agreed their own general regulations to prevent abuses on the inhabitants and vested management of the weighing machines with the Sheriff Depute on the condition that accounts would be kept and fees recovered would be paid to the Police fund.<sup>17</sup>

Other than the change of responsibility for the coal weighing machines, the 1822 Act continued the measures developed under the 1805 and 1812 Acts which enabled specific regulations to be made for the purpose of ensuring the safety and well-being of the inhabitants. Thus the Bailies and Sheriff Depute regulated licensed premises, brokers, street cleaning and lighting, pedestrian and vehicular street traffic and the weighing of hay and straw.<sup>18</sup> The other miscellaneous provisions which continued included the need for street naming, house and shop numbering, foot pavements, soil pipes and street sewers, and also the prevention of street nuisances.<sup>19</sup> The new provisions introduced in the 1822 Act included a requirement on the keepers of lodging houses to give notice of persons contracting a contagious disease, and preventive measures relating to the escape of gas, polluted substances into rivers and streams, and the emissions of manufactories' smoke. The 1822 Act was also limited to continue in force for ten years.<sup>20</sup>

## COMMISSIONERS OF POLICE

The two-tier partnership of General and Residential Commissioners continued under the 1822 Act and their roles and responsibilities remained unchanged. The General Commissioners were responsible for enforcing the Act and making major policy decisions, and the Residential Commissioners responsible for ensuring the implementation of those policies in their respective Wards. An increase to thirty Wards did not significantly alter the balance between the elected and non-elected General Commissioners. Whilst at the commencement of the 1812 Act, the ratio of elected to non-elected members stood at 26:6 (i.e. almost 4 to 1) the balance was redressed to almost 2 to 1 by the 1817 Act. Under the 1822 Act the ratio of elected to non-elected changed to 30:16 (i.e. still 2 to 1) which was about the same as under the 1805 Act. The sixteen non-elected General Commissioners were the Lord Provost, four Bailies, Dean of Guild and Treasurer of the City, the deacon Convenor of the Trades in the City, Sheriff Depute, one Sheriff Substitute, Senior Resident Bailie of Canongate, the Dean of the Faculty of Advocates, Deputy Keeper of HM Signet, the Preses of the Society of Solicitors before the Supreme Courts in Scotland, the Master of the Merchant Company and the Convenor of the Southern Districts, all for the time being.<sup>22</sup>

However the election of Residential Commissioners and nomination of the elected General Commissioners changed significantly under the 1822 Act. Whilst there were still three Residential Commissioners for each of the thirty Wards, elections took place annually in June for two Residential Commissioners and one General Commissioner collectively for each Ward. Thus persons holding the property qualification could canvas themselves annually for nomination in either capacity. Thus the triennial election of one Residential Commissioner in each Ward over three years was rescinded. However, the franchise still stood at £10 and upwards of yearly rent, and the property qualification to stand for election stood at £20 yearly rent in most Wards, rising to £30 year rent in eleven of the more affluent Wards.<sup>23</sup>

The first elections under the 1822 Act took place on Monday 24 June 1822. A book was prescribed to be kept in each Ward in which details of Commissioners and voters were to be recorded, but none of these books are extant. The time and place of elections were publicised in advance and the practice yearly from 1822, was to list in the minute book all the new General Commissioners and the new Residential Commissioners for each Ward, at the first meeting after the election.<sup>24</sup>

After the commencement of the 1822 Act, the main standing committees of General Commissioners began drafting and updating their respective sets of regulations. In September 1822 a comprehensive and codified set of Instructions, Orders, Regulations and Byelaws, were ordered to be printed and made public. The published document pertained to:

- watching with fifteen regulations;
- lighting and cleansing with five regulations;
- miscellaneous offences with fourteen regulations relating to gunpowder, vagrants, harbouring rogues, lodging houses, keepers of 'tippling' houses, brokers, gas, number of streets and houses, foot pavements, steam engines, water from roofs, soil pipes, water supply, and hay and straw provision; and
- obstruction offences with nineteen regulations including prohibitions against swine and poultry, and the playing of football, shinty or other ball games on the street.

Whilst these regulations had in the past been publicised separately as and when required, this was the first occasion of issuing such a codified set.<sup>25</sup>

Apart from the regular standing committees, the General Commissioners introduced a new standing Visiting Committee in November 1822. Although no official reason for the Visiting Committee is minuted, its remit was to introduce stricter scrutiny at the Main Police Office and other watchhouses, to prevent the episodes of drunkenness which had come to light and to ensure that prisoners were being properly managed. Basically, the two Residential Commissioners in each Ward took turns over the period of one week to visit the Main Police Office at any time but at least once in every twenty-four hour period. Watchhouses were also visited on a discretionary basis. A book was kept at each station,



in which the visiting Commissioner had to enter remarks. Rotation of this responsibility fell on the Residential Commissioners, commencing with Ward I and numerically through each of the thirty Wards before returning to Ward 1 after a thirty weeks cycle.<sup>26</sup>

Ad hoc committees were periodically appointed to examine the books kept at the stations and to report on the efficacy of the Visiting Committee. In March 1823 it was reported that the system:

Has an obvious tendency, to create and maintain a proper understanding between the police officers and the public at large: And the benefits which will result from this sort of confidence and mutual support must greatly overbalance the trouble and exertions imposed by this new system on the Residential Commissioners.

Again in November 1823, another ad hoc committee examined the visiting books and concluded that there was 'ample proof that the system of visiting is beneficial and ought to be preserved'.<sup>27</sup>

The most comprehensive review of the system for visiting the Main Police Office and district watchhouses was undertaken in April 1824. That Committee reported upon the benefits beyond keeping Police officers 'on the alert' and highlighted the need to action comments on required repairs, ventilation and cleanliness to the watchhouses and the need to ensure proper prisoner care whilst in Police custody. Indeed many of the recommendations of this Committee related to prisoner care after the opening of a new Main Police Office that month. In July 1825 the need for examining visiting books became continuous, for that responsibility was conjoined with the existing Committee on Byelaws.<sup>28</sup>

As a sign of continued Whig pressure towards accountability and openness, the General Commissioners had to consider the question of press access to their meetings. On 9 January 1826, Sheriff Depute Duff presented a letter received from Mr Murray, editor of the *Edinburgh Times* newspaper, which requested permission to attend their future deliberations. Consideration was deferred until their next meeting in February 1826, but

when the motion was laid for press access, it was defeated by fourteen votes to ten votes.<sup>29</sup> The question was raised again in May 1827, when a letter from Charles McLaren at the *Scotsman* newspaper office submitted that:

As early and correct Reports of the proceedings of the Board of Police are of much importance to the public, I beg leave respectfully to submit whether it might not be proper to admit Reporters for the press to the meetings, under such restrictions as the Board may deem necessary.

This letter was laid on the table until the next meeting in June 1827 and when a motion was placed for press access the majority agreed to admit newspaper reporters 'under regulations and restrictions to be laid down by the General Meeting from time to time'. Despite this newly gained freedom of access to Police Board meetings, there was no direct reference made to gaining such access in subsequent editions of the *Scotsman* newspaper. Indeed the newspaper appears to only to have increased the selective reporting of cases appearing before the Police Court, rather than highlight substantive Police issues considered by the General Commissioners.<sup>30</sup>

As the range of responsibilities of the General Commissioners increased, so did the format of standing committees divide tasks between the Commissioners. By 1829 standing Committees were appointed for Watching, Lighting, Cleansing, Finance, Billeting, Fire Engines, Law, Byelaws and Bridewell, Watchhouses (previously Visiting Committee), Watering of Streets, Naming of Streets, Scrutiny of Elections and Appeals (which now had four Divisions). The Watching Committee remained the most important for it was always chaired by the Sheriff Depute and membership always included the Lord Provost the 1st and 4th Bailies, and the Sheriff Substitute.<sup>31</sup>

Despite the polemic of a property qualification set at twice the level of the franchise, many middle class prominent figures in Edinburgh society participated in the new democratic process and thus influence the development of the Police and system of police. Even Henry Cockburn, champion of the Whigs cause, acknowledged that:

Nobody foresaw, and least of all its authors, the indirect consequences of this police establishment. So far as I am aware, it was the first example of

popular election in Scotland. Aversion to be taxed was overcome by allowing the people to choose the Police Commissioners; a precedent always appealed to, till the Reform Act superseded the necessity of using it. The gradual extension of the police system over our towns trained the people to expect and to exercise the elective privilege.

As an Advocate, Cockburn himself was elected a Residential Commissioner in July 1829 and a General Commissioner in 1830 and 1831.<sup>32</sup>

## THE SUPERINTENDENT AND LIEUTENANTS OF POLICE

Since the struggle between the non-elected and elected General Commissioners had for almost two years focused on the accountability of the Superintendent and in particular on the method of his appointment and dismissal, it is hardly surprising that the principle change in the 1822 Act related to the process by which the Superintendent could be dismissed. The compromise reached between the arbiters in Parliament in June 1821 was to facilitate easier dismissal should the so-called 'functionaries' disagree with the General Commissioners, as had been the case between 1820 and 1822. Thus the Lord Provost and Sheriff Depute with the assistance of the Lord Advocate as arbiter, who were collectively known as the 'functionaries', continued to have the power to appoint and remove the Superintendent at their pleasure. However, a new panel of five persons comprising the:

- Professor of Scots Law at Edinburgh University;
- Lecturer on Conveyancing appointed by the Society of Writers to HM Signet;
- immediate past Master of the Merchant Company;
- immediate past Convenor of the Eight Southern Districts, and
- a nominee of the General Commissioners,

could be summoned to decide the question of dismissal of the Superintendent upon a formal complaint being publicly lodged by the General Commissioners.<sup>33</sup>

The Superintendent alone had the power to appoint the lieutenants, serjeants, and watchmen in numbers determined by the General Commissioners. His salary was

prescribed by the General Commissioners but was restricted to between £250 and £500. He remained prosecutor in the public interest before the Police Court which continued to have jurisdiction in respect of all regulations made by the Town Council or the General Commissioners, except those relating to lighting and cleansing. As regards the latter regulations, prosecution in the public interest before the Police Court became the exclusive responsibility of the new Inspector for Lighting and Cleansing. Finally, whilst responsibility for billeting arrangements was also removed from the Superintendent, a new responsibility was added in respect of visiting and inspecting the Bridewell and other gaols in the city and to furnish reports to the Lord Provost and Sheriff Depute.<sup>34</sup>

As the 1822 Police bill reached the final stages of Parliamentary approval, Superintendent Brown in a letter dated 8 April intimated his intention to resign on Whitsunday (15 May) 1822. In June 1822, when Sheriff Depute Duff announced the appointment of Captain James Robison, as the new Superintendent of Police he did so under the 1812 Act, and this appointment was confirmed at the first meeting of the General Commissioners under the new Act in July 1822.<sup>35</sup> When the codified instructions were issued in September 1822, the Superintendent was required to produce regular quarterly reports on the state of crime and the establishment, in August, November, February and May yearly, with the latter forming an annual report to the General Commissioners.<sup>36</sup>

The military background of Superintendent Robison permeated his early reports. In his first report in November 1822, he suggested that the watchboxes remaining in each Ward after the public rous in March 1821 be dispensed with as they were 'too strong a temptation to the lazy or sleepy watchmen'. He recommended that as an alternative to the boxes, each officer could be issued with a canvas cloak to button round the neck and hang as low as the hips, and also a 'greased hat' both to be purchased at their own expense. Such items would therefore 'leave them no excuse for taking shelter in wet or stormy weather'. This idea was remitted to the Watch Committee, but it does not appear to have progressed. However in January 1823, the Commissioners did approve Robison's plan to have a portion of the night watchmen commence duty early, so as to cover the

period from five to nine o'clock each evening and thus ensure round the clock Police patrols.<sup>37</sup>

Superintendent Robison's quarterly reports to the General Commissioner during the remainder of his six years in office mainly focused on the 'state of crime' and the periodic need for extra officers due to the growth of the city, rather than suggest any further reform to the Police or system of police. There is no evidence of any conflict between Robison and the General Commission and it appears that he was allowed to get on with his job. His satisfactory performance was recognised in August 1825, when his salary was increased from £350 to £400 per annum. Unexpectedly however, in March 1828, the Lord Provost and Sheriff Depute announced the dismissal of Superintendent Robison. Without minuted explanation they agreed that Robison could draw his salary until Whitsunday following. The dismissal was probably linked to yet another scandal alleged by the *Mercury* newspaper in February 1828 when it was claimed that after a housebreaking in the New Town, police officers had 'compromised a felony' by offering to sell recovered stolen property back to the thieves.<sup>38</sup>

As an interim measure Lieutenant James Kirkwood was appointed acting Superintendent in March 1828. He continued in office until the appointment of James Stuart, then Intendant of Police for Leith, as Superintendent in April 1828 with a salary of £300. Following a motion from Sheriff Depute Duff, it was agreed to reconstitute the rank of a Captain Lieutenant at £150 per annum. The other two lieutenants according to seniority were given £100 and £80 salaries respectively, but the rank of serjeant major was abolished as a consequence.<sup>39</sup>

The role of the lieutenants is not specifically detailed in the 1822 Act nor considered in the minute books of the General Commissioners appointed thereunder. Although temporarily reduced to two lieutenants in January 1822, the General Commissioners had little sympathy for the increased workload of Lieutenants James Young and Andrew Baird. When they submitted a Memorial within three weeks highlighting the plight of having to undertake a twenty-four hour duty every second day, their request for a third lieutenant

was refused on the grounds that they had less duty to perform in relation to lighting and cleansing. Only when the Visiting Committee confirmed the need to have at least one lieutenant on duty at all times to take charge of the Main Police Office, was the third lieutenant re-appointed in October 1822. By August 1829, the establishment returned to the 1819 position with the appointment of a fourth lieutenant.<sup>40</sup>

Appointments of new lieutenants were not acknowledged in the minute books of the General Commissioners since they were made by the Superintendent at his pleasure. However they were periodically mentioned by name in the distribution of the reward fund and whenever disciplinary matters were considered. Thus when Lieutenant Young retired in May 1822, he was replaced by Lieutenant James Stuart. The appointment of Lieutenant Cameron in August 1822 provided some stability in the top ranks until 1826 when Lieutenant Baird was dismissed after a complaint about his conduct. During 1827 Lieutenant Stuart gained the appointment of Intendant of Police at Leith and Lieutenant Cameron retired. The three replacements were Lieutenants Kirkwood, Kerr and Carmichael, but when James Kirkwood resigned in July 1829 to become Governor of the Bridewell, he was replaced by a Lieutenant Home. Kirkwood had been Captain Lieutenant after the rank was reconstituted in April 1828 and it was Kerr who replaced him. By 1831 Captain Lieutenant William Kerr was assisted by Lieutenants Robert Alexander, James Paterson and John Harvey.<sup>41</sup>

The lieutenants appointed under the 1822 Act appeared to be diligent towards their duties for the minute books periodically praised their individual actions. Moreover they often featured in named distributions of the reward fund, along with the serjeants and watchmen. The 1822 Act specifically authorised the General Commissioners to:

Place at the disposal of the Lord provost and the Sheriff, sums of money not exceeding £500 per annum, to be used for rewarding the Superintendent and any of the police officers for extraordinary exertion to duty.

Although the reasons were never minuted, the involvement of the Lord Provost and the Sheriff Depute in the Watching Committee ensured that they were best placed to make the independent judgements.<sup>42</sup>

## OTHER OFFICERS OF POLICE AND WATCHMEN

The 1822 Act continued the principle that the Superintendent could appoint and dismiss at pleasure 'Lieutenants, Serjeants, Watchmen and other inferior Officers of Police' in numbers approved by the General Commissioners. All were vested with the powers of constable by the law of Scotland and their main tasks essentially remained the same as it had since 1805 with the emphasis on the detection of offenders as a means of preventing crime. Thus under the command and control of the Superintendent, their duty was to 'guard, patrol and watch' the streets and to apprehend and bring before the Bailies or the Sheriff Depute 'persons who may be found actually committing any criminal, riotous, or disorderly act'. Moreover the officers were expected to enforce all regulations and to apprehend 'all Vagrants and common Beggars for Examination'.<sup>43</sup> However a new statutory provision was added to have serjeants report on the state of lighting during the night and the time scavengers came to their station in the morning.<sup>44</sup>

Whilst the 1822 Act prescribed in broad terms the role and responsibility of the Police; the consolidated Instructions, Orders, Regulations and Byelaws published in September 1822 laid down exactly what was expected from them. The preamble to the Watching Regulations, stressed that the efficiency and value of the Police establishment depended upon the employment of 'active and able-bodied men'. To that end it was ordered that 'no person shall henceforth be appointed a Serjeant or Watchman, who is above forty five years of age; and who cannot read and write'. Whilst the Superintendent had responsibility for having a 'trust-worthy officer' present at all times by night and day at the Main Police Office, to receive prisoners, complaints and property recovered, it was ordered that:

One Serjeant shall be present, during the night at each Watchhouse, whose duty it shall be to receive prisoners, and such informations as the Watchmen may communicate of what occurs during the night and a book had to be maintained for that purpose<sup>45</sup>

As regards the training of officers, each serjeant was provided with a copy of Tait's *Summary of the Powers and Duties of a Constable*, which at least once a month was 'read and explained' to the men under his charge. Each officer was also issued with a copy of the consolidated Instructions with which they had to be familiar. An arrangement was also made for new regulations or orders of the Superintendent to be publicly read over to officers on the first Monday of every month, or more often if it was found necessary. Although the powers of the constable in Scotland were trite law, new demands on the Police continued to develop as they undertook more proactive intervention in the interests of justice. So, for example, after the demise of the City Guard, the responsibility of guarding prisoners in the dock during criminal trials fell on the Police. When the Law Committee attempted to withdraw from this demand on service in 1823 they failed to persuade the Lord Justice Clerk.<sup>46</sup>

The prevention of crime had as much importance as the detection of crime, for the main regulations on the duties of the officers and watchmen directed them to:

Be vigilant in *preventing* all crimes and offences; diligent in apprehending criminals and persons committing offences under their own eyes, or against whom warrants have been granted by any competent authority; attentive in enforcing all byelaws, orders or regulations. (italics added)

Offences were created for publicans supplying liquor to officers, and for officers consuming liquor on duty or associating on the streets with 'loose women'. Whilst performing their duty, officers were expected: 'to maintain the most exact regard to sobriety and decency in their own conduct'; and 'be circumspect when upon duty; civil and attentive to every person, bearing bad language and even reproach'. If anyone should ask, they were to supply their name and number instantly even though no blame attached to their action.<sup>47</sup>



Following a decade of manpower restrictions due to financial constraints, the Edinburgh Police establishment began to increase in strength after 1822. The increases, which followed submissions from the Superintendent to the Watching Committee, were designed to enhance both the effectiveness and efficiency of the Police as well as extending their availability due to the growth of the city. Thus in October 1822, six additional officers were specifically employed on patrol duties with responsibility for conveying prisoners from the watchhouses to the Main Police Office. In January 1823, another six additional officers were employed to enable rationalisation of the nightwatchmen so that a portion could be deployed earlier between six and nine o'clock each evening. The next large increase came in July 1826 when eight additional daymen were employed to enable early morning coverage between six and nine o'clock.<sup>48</sup> Figure 5B shows the establishment strength over the period 1823-1833, taken from selected annual reports.

**Figure 5B - Establishment Manpower 1822- 1832**

Year	Serjeants	Criminal Officers	Patrolmen	Daymen	Night-watchmen
1822	21			19	169
1823	21			25	175
1824	21			25	176
1825	21			25	180
1826	21			33	181
1827	21			33	182
1828	18	6	34	26	149
1829	18	6	34	26	149
1830	18	6	34	26	150
1831	18	6	34	27	150
1832	18	6	34	27	150

Source: Figures extracted from Annual Accounts published in August each year

The increase in manpower over the period also facilitated a rationalisation and restructuring of roles and responsibilities within the police. When the rank of Captain Lieutenant was first introduced in January 1819, the incumbent soon developed an overview and degree of expertise in dealing with matters criminal. The conflict between the elected and non-elected Commissioners to abolish the rank had more to do with the perceived misdemeanours of Captain Lieutenant Bremner rather than his functional role in deputising for the Superintendent and investigating more serious crimes reported by the public. When the rank was reconstituted in April 1828 it carried the salary of £150 in contrast with the salaries of £100 and £80 received by the other two Lieutenants. When Superintendent Stuart provided his first quarterly report in May 1828, he recommended the appointment of six criminal officers and six assistant criminal officers. However after gaining approval for the new officers dedicated to the investigation of crime, only half the number was authorised. Figure 5C shows the relative salaries of all officers on the Establishment year 1828-1829.

**Figure 5C - Police Establishment Salaries & Wages (1828)**

Superintendent	£300	Clerk	£200
Captain Lieutenant	£150	Surveyor	£135
Lieutenant	£100	Inspector	£150
Lieutenant	£100	Assistant Inspector	£ 78
Lieutenant	£ 80	Surgeon	£120
		Housekeeper	£ 21
3 criminal officers		25/- per week	
3 assistant criminal officers		16/-	
6 serjeants		17/6d	
12 serjeants		16/6d	
26 daymen		12/- + 2/- for 17 winter weeks	
34 patrolmen		13/- + 1/- for 17 winter weeks	
149 watchmen		12/- + 1/- for 17 winter weeks	
2 turnkeys		15/-	

Nevertheless the commencement of six criminal officers in 1828 laid the foundation of the Criminal Investigation Department whose role was to become a permanent feature of modern police work.<sup>50</sup>

It should be noted that the economic circumstances of the period, with the over supply of labour resulted in the wages of serjeants and watchmen falling in relative terms since 1814. By 1830, the roles of serjeants and length of service of watchmen were distinguished further and wages adjusted accordingly. Thus of the eighteen serjeants on the payroll in 1830:

- 6 district serjeants received 17/6d per week
- 7 ward serjeants received 16/6d per week; and
- 5 watchhouse serjeants received 14/- per week

Moreover in respect of the two hundred and five officers on the establishment:

- 26 daymen received 12/- per week;
- 29 nightpatrolmen received 13/6d per week;
- 127 nightwatchmen received 12/- per week; and
- 23 junior nightwatchmen received 11/- per week

with the provision that they all received an extra 1/- per week during 17 winter weeks.<sup>51</sup>

Another important development for the Police during this period was the return to wearing a distinguishing uniform while on duty. The issue of establishment dress tunics to daymen and greatcoats to nightwatchmen appears to have been discontinued after 1812 without debate. Although the officers were required to obtain their own suitable clothing, legal recognition continued to be placed on the baton which was numbered and which had to be produced as a sign of constable authority. Batons were ordered periodically in bulk, as in August 1822 for the Royal Visit when thirty batons with silver mountings were purchased, one for each Residential Commissioner acting as constable, and two hundred and fifty ordinary batons. Prior to 1821, most officers would be identifiable whilst stationed at their watchbox. Thereafter the nightwatchmen were still required to carry watch lanterns when on their rounds away from the watchbox. Only as late as June 1828, did the Watching Committee agree that there was no need for carrying lighted lanterns during the

summer months. Nonetheless Police officers would no doubt still be discernible in their own greatcoat or cape.<sup>52</sup>

As a sign of changing times, a letter from James L'Amy, Advocate and elected Commissioner, asked the General Commissioners in December 1829 to consider 'the propriety of giving Police officers a distinguishing dress or badge by which they may be known at some little distance'. He acknowledged that dress would increase the expense of the Police, but emphasised that their recognition would deter offenders. His suggestion that the officers wear a 'red or white sash round the waist or over the shoulder' which could be removed during discreet watches was remitted to the Watching Committee, but not adopted. The absence of distinctive uniform for so long a period in the Police which aimed to *prevent* crime, is of considerable importance for it means that the 'preventive' role of officers relied on proactive intervention before a crime was fully committed or else detection of offenders to prevent repetition of crimes and offence, rather than strict deterrence by high visibility on the streets.<sup>53</sup>

The question of standard uniform was raised again in May 1831 when the daymen petitioned the Watching Committee for an increase in wages, due to their requirement to purchase 'better apparel than the night officers.' When referred to the General Commissioners in September 1831, they agreed that a standard uniform was required. The *Police Recorder* reported that:

The men are to be dressed in one uniform, namely a light hat, glazed black, on a French plan, a blue frock coat, red collar and brass buttons, with the words Edinburgh Police on the left breast. There is a small circle bordered with red in the centre, on which is a figure, intimating the number of the officer. A pair of dark grey trousers completes the costume. Instead of the truncheon, with which they are at present armed, they are to have only small walking canes.

The new uniform was restricted to the daymen on account of the costs, but steps were taken in October 1831 to issue the traditional greatcoat to the rest of the Force.<sup>54</sup>

Finally, the 1822 Act finally continued the principle that the General Commissioners could authorise the Superintendent to employ 'other inferior Officers of Police' when circumstances warranted. Almost as a matter of routine, the Superintendent was authorised to employ up to two hundred men for the annual hogmanay celebrations in addition to the city High Constables. Other occasions for supplementary manpower continued to be the 'Kings Birthday' celebration, now on 23 April each year for George IV, and of course during public executions.

With more emphasis on maximising the effectiveness and efficiency of the Police, steps were taken to employ persons in a civilian capacity where full police powers were not necessarily required. Thus in August 1822, a William Sutherland was employed as an assistant at the Main Police Office for 9/- per week. With the opening of a new Main Police Office in April 1824, the Superintendent was authorised to employ male and female turnkeys to look after custody prisoners on condition that they would not be called out of doors on any duty whatsoever. Following the death of a female in Police custody in April 1830, a second female turnkey was employed. Whilst the two male turnkeys received 7/6d per week, the two female turnkeys received 5/- per week.<sup>55</sup>

#### **ADMINISTRATION OF THE 1822 ACT**

The 1822 Act continued the principle that the General Commissioners could appoint surveyors, clerks and collectors in numbers deemed necessary with their costs divided in such proportions as thought proper between the Lighting, Cleansing and Watching Departments. The clerk represented the legal capacity of the General Commissioners and could sue or be sued in his own name on their behalf. The collector could with specific authorisation borrow up to £5,000 for Police establishment purposes. Although for accounting purposes the financial year ran between each Whitsunday, the General Commissioners were obliged to produce estimated expenditure for the current year, by August of that year, and annual accounts had to be published the following July.<sup>56</sup>

The General Commissioners could either appoint surveyors to assess and report upon the yearly rents or yearly value of premises, or call upon the surveyors for the collecting of HM Taxes, to furnish certified copies of their rent rolls at the rate of 6d for every 72 words. Whilst initially assessments were based on certified copies of the rent rolls, by July 1823 it was deemed more efficient to employ a Robert Paterson as establishment surveyor at a salary of £ 170 per annum. Paul Baxter was re-appointed collector in August 1822 at a salary based upon 2½% of monies collected plus an allowance of £50 for expenses. He was required to find a £5,000 bond as security for intromissions.<sup>57</sup>

The method of calculating assessments under the 1822 Act continued the principle re-established in the 1817 Act. By November each year, the General Commissioners had to assess 'all Tenants, Occupiers, and possessors of Dwelling Houses, Cellars Vaults, Shops, Watchhouses, Breweries, Manufactories and other Buildings' declare a sum not exceeding 1/3d in the pound (i.e. 6.25%) of the real rent of property as the annual rate to be applied. An additional 1d in the pound could also be raised on properties covered by the 1805 and 1812 Acts for the purpose of extinguishing debts under these Acts. Summary diligence could be effected to recover rates and the exemptions for rents under £5 (unless spirituous liquors be sold therein) and places of educational or public worship still applied.<sup>58</sup>

The assessment and collection of rates under the 1822 Act continued to be fairly effective although not to the same extent as under the 1812 Act. Figure 5D shows the relationship between the annual rate applied on the rental values between 1822-1832 and the predicted annual gross assessments against actual revenues.

**Figure 5D - Rental Values, Rates, Assessments and Revenues 1822-1832**

Year	Rental Value	Rate	Gross Assessment	Revenue
1822-23	366,682	1/-	18,151	16,501
1823-24	373,736	1/-	18,499	16,818
1824-25	416,663	1/-	20,625	18,750
1825-26	432,103	1/-	21,389	19,445
1826-27	444,773	1/1d	23,850	21,682
1827-28	445,584	1/3d	27,751	25,065
1828-29	441,502	1/2d	25,496	23,179
1829-30	432,689	1/1d	23,203	21,094
1830-31	401,992	1/2d	23,214	21,104
1831-32	399,073	1/-	19,753	17,958

Source: E.P. Minute Book (1832-1834) p430 abstracted from rental and expenditure returns between 1819-1833

Revenues obtained were always less than gross assessments. Between 1822 and 1832, the standard practice was to deduct a 10% (previously 7%) allowance from gross assessments for 'desperate' arrears.

As regards establishment expenditure over the same period, Figure 5E shows the sums expended by the Watching, Cleansing and Lighting Departments.

**Figure 5E - Establishment Expenditure 1822 - 1832**

Year	Watching	Cleansing	Lighting	Total Expenditure
	£	£	£	£
1822-23	10,676	3,592	6,236	20,505
1823-24	11,330	3,475	5,486	20,292
1824-25	10,752	3,817	6,746	21,317
1825-26	11,038	4,457	8,328	24,454
1826-27	12,056	4,670	8,747	26,974
1827-28	12,892	4,399	8,595	26,887
1828-29	10,864	4,351	7,261	23,077
1829-30	10,459	3,878	6,226	21,014
1830-31	10,592	4,166	6,586	21,846
1831-32	11,206	4,318	7,022	22,847

Source: E.P. Minute Book (1832-1834) p436 showing return of rental between 1819-1832

Despite the need to borrow capital, the debts under the 1822 Act did not present the same burdens as under earlier Acts. Taking account of the 7% deduction for 'desperate' non-recoverable arrears, by Whitsunday recoverable debt arrears on assessment imposed in 1822 amounted to £6,975. This amount however only represented 3.17% of the total £219,717 due to be collected over the preceding eleven years. Even although assessment arrears could be recovered by summary diligence, this action was exercised sparingly. The Committee on Arrears reported in 1830 that over the years, 'warrant sales' applied in only three or four cases out of more than five thousand persons assessed.<sup>59</sup>

In December 1822, General Commissioners confirmed that Alexander Callander and David Lees should continue to be employed as clerk and assistant clerk at pleasure. In November 1825, Callander intimated his wish to resign and Lees was appointed Principal Clerk with power to appoint an assistant. When David Lees died in February 1828, a committee was appointed to consider his role, emoluments and replacement. The committee findings provide an insight into the onerous tasks undertaken jointly by the clerks.

The clerks began duty before nine o'clock each morning in order to make out complaints received during the night and make up the roll of cases to be prosecuted before the Police Court each weekday. Both clerks attended the Police Court at ten o'clock each weekday, to call cases, parties and witnesses and write down the sentences imposed. Although the Police Court lasted until twelve noon each day, the clerks thereafter had to certify copies of complaints and ensure the execution of sentences. The clerks also had to make up a list of complaints to be heard before the Sheriff Court and attend to duties at the Court which sat every Tuesday, Thursday, and Saturday at one o'clock. They were also responsible for checking reports between the police and the prisons and for rendering a monthly account of fines imposed. Importantly, the clerks had to make searches of records maintained by themselves, to establish whether an accused had been previously punished or indeed three times convicted of dishonesty. These searches extended to the Procurator Fiscal records for the city, for previous convictions in order to



establish 'habit and reputed thief' status which merited remittance to the Sheriff Court. Quarterly returns of Police Court convictions were required to the Procurator Fiscal for onward transmission to the Lord Advocate. In addition to Police Court and Sheriff Court related duties, the clerks were required to attend to at least fourteen committees of the General Commissioners and attend to associated correspondence.

Both clerks worked on average from nine till four o'clock each day and again from six till nine o'clock each evening. The Principal Clerk had received a salary of £300 plus fees from private parties submitting caution and bail bonds which amounted to £168 over 1827. He had to pay the salary of the assistant clerk, so in 1827 after payment of £175 to his assistant, the salary amounted to £293. The Commissioners welcomed the report, and after appointing assistant clerk John Thomson, to the post of Principal Clerk, they restricted his salary to £200 per annum plus fees of Court.<sup>60</sup>

The General Commissioners continued to develop a corporate approach towards public safety and well-being after 1822. With the appointment of the Inspector for Lighting and Cleansing in 1821, direct responsibility for these services was effectively removed from the Superintendent and thus his role focused more on the Police and their contribution to the system of police. The legal position of the Inspector of Lighting and Cleansing was confirmed in the 1822 Act, when it was declared that the General Commissioners could appoint such a person at their pleasure, to have responsibility for appointing lamplighters and scavengers in numbers fixed by them. The independent Inspector prosecuted in the public interest in the Police Court all offences relating to lighting and cleansing.<sup>61</sup>

Despite the initial reluctance to accept the authority of Inspector Logan, there was more harmony with the new Superintendent after the 1822 Act. Inspector Logan managed to retain the confidence of the General Commissioners during his tenure. He was reprimanded in May 1822 for appearing 'worse for liquor' one evening before a meeting and warned of dismissal if found in that state again. An assistant Inspector had been appointed in January 1822 to share the workload, but there were three holders of that post before Logan died in July 1826. The only scandal affecting Inspector Logan

before his death was personal enmity displayed to Dr Black the Police surgeon. After allegations made by Logan, an intensive enquiry by an ad hoc committee in May 1826 reported that Dr Black was guilty of obtaining manure by stealth, but the outcome involved censure of both Dr Black and Inspector Logan for their conduct. Assistant Inspector Ramsay was appointed to succeed Logan after his death in July 1826.<sup>62</sup>

As new public safety issues emerged during this period, the response of the General Commissioners was to establish a new service with specific responsibilities under the bureaucratic organisation but still accountable to the Commissioners. Hence the Commissioners developed a range of services which were eventually integrated into local government. The three additional preventive services developed related to fire, juvenile delinquency and public health.

Fire was a common hazard but all the more dangerous in an urban situation when undetected and unchecked. Large fires in Edinburgh were rare and the historian Arnot mentions only the fires of 1700 in Parliament Close and 1725 in the Lawnmarket. A fairly large fire in February 1813 in Bishops Land in the High Street ought to have served warning of the difficulties of tackling the hazards on the high-rise land buildings. Following that fire a *Scots Magazine* article pointed out the need for an organised and co-ordinated fire engine response to tackle similar situations. The anonymous contribution by 'Civis' reported that despite the early alarm given and the response by fourteen fire engines, the fire fighting operation was a shambles. Only two fire engines had the power to throw water to the height required and the crowd which assembled had obstructed the traditional method of conveying water in buckets to the scene. Nobody appeared to be in overall charge and whilst the constable present had retired at two o'clock in the morning, the fire had re-ignited again two hours later and was not subdued until eight o'clock that morning. Civis took the view that 'fire plugs' ought to be installed at convenient distances throughout the city and that Magistrates ought to provide a 1/- reward to everyone who should appear with a bucket to fight a fire.<sup>63</sup>

Another open letter from a Edinburgh resident appeared in the *Scots Magazine* in January 1814. The letter addressed to the directors and managers of the Edinburgh Insurance Companies against fire, suggested that they:

Abolish all names or marks that distinguish company engines, and form the whole into one body upon military principals. A Regiment, as it were, would be formed of Firemen, and the men, as in companies, would be attached to the different engines, which would be, like them, numbered.

By such means, the combined interest would lead firemen to join their united pipes to the firecocks which were often beyond the reach of individual engines.<sup>64</sup>

The call for a public fire fighting service was not heeded and it took a major catastrophe in 1824 before action was taken. In June that year, a large fire broke out in a spirit dealers shop at Royal Bank Close in the High Street. Five houses within a six storey high land were destroyed and one person died before the fire was extinguished. Ironically, a meeting had already taken place in May 1824 between the Lord Provost and Bailies and the agents representing the Fire Insurance Companies for the purpose of promoting a united fire service. The June fire spurred the General Commissioners to establish a Fire Engine Committee which reported in August 1824. They recommended the formation of a Fire Engine Department at the cost of £500 per annum, which included;

- a full time Fire Superintendent at £60 salary,
- four part time head fire engine men at £10 each; and
- sixty on call firemen at £1 retainer each.

Four existing fire engines owned by the Friendly, Caledonian and Sun Fire offices and the Southern Districts were pledged to be combined with two engines owned by the Town Council. The plan was approved and in October 1824, twenty one Insurance Companies agreed to contribute £275 annually to the Department and the Town Council agreed fifty guineas. Within a fortnight of the agreement and without advertising the position, the Commissioners appointed a James Braidwood as Superintendent of Fire Engines.<sup>65</sup>

The formation of the new Fire Department was timely but its first major task was singularly unsuccessful. About ten o'clock on Monday night 15 November 1824, flames were seen

issuing from a large seven storey land at Old Assembly Close in the High Street. The fire originated in a flat occupied as a copperplate printing house. During the course of that night, winds spread the fire out of control to other tenement buildings eastwards towards the Tron and westwards to Old Fishmarket Close and the boundary at Parliament Square. Whilst the engines still poured water on the smoking ruins, about midday a fire broke out on the steeple of the Town Church. The steeple was totally destroyed with molten lead running down the side of the church before that fire was extinguished that afternoon. Finally a third fire commenced about ten o'clock that Tuesday night nearer Parliament Square end and burned fiercely all night consuming more lands in the direction of the Cowgate. Over two days about twenty 4 to 9 storey lands had been destroyed. Eight individuals had died or been killed by falling ruins, and more than three hundred persons made homeless. A total of twenty-two fire engines had been in operation, some having attended from Leith, Musselburgh and Dalkeith.<sup>66</sup>

The calamitous fires caused the Fire Engine Committee to focus on improvement and reform of the Department. Fire Superintendent Braidwood was not faulted for his actions and indeed was awarded £21 in respect of his exertions at the series of fires. In February 1825 the Committee received papers on the Fire Establishment of Paris forwarded for interest by Mr Chevalier Masclet, French Consul in Edinburgh and he was thanked for his submission. In March the Committee reported their intention of placing one large fire engine in each quarter of the city, with the smaller engines at expedient locations as supplements. Reference was made to the use of a 'triangle' on each machine to sound alarm as the large horse drawn engines moved through the streets. Importantly for the future however, the General Commissioners agreed to increase the number of fire cocks in the city from 48 to 208 in total at a cost of £672. By August 1825 the reform of the Fire Department appears to have been effected for Committee reported that 'the Superintendent of Engines was now provided with men who drill and a set of new engines' and they acknowledged the assistance from the corps of Firemen of Paris in a communication to the French Government.<sup>67</sup>

As first Superintendent of Fire Engines, James Braidwood singularly assisted in the development of the service, to the satisfaction of the General Commissioners. In October 1825 his salary was raised to £100 per annum and by December 1825 he was also appointed Billetmaster, a responsibility transferred from the Superintendent of Police, which attracted an additional £30 salary. By 1828 Braidwood had an Assistant who received £46 per annum. In June 1829, Braidwood successfully argued against the reduction of retained fire officers from sixty to forty, by describing their drill requirements of 1½ hours per month and also the number of false alarms they attended. However the Commissioners opted for reducing the retainer for the four Fire Captains from £8 to £4 per annum and set their fees at 1/6d per turnout and for each hour thereafter, but restricted to 1/- per hour after four hours duty. With the passage of time, the Fire Engine Committee referred to Braidwood more often as Master of Fire Engines rather than Superintendent and hence the shortened title of Fire Master became popular. A special meeting of the Commissioners was convened in April 1832 to receive the resignation of James Braidwood as Master of Fire Engines and to express their vote of thanks for his service over eight years.<sup>68</sup>

Juvenile delinquency had been of concern to the General Commissioners for some time. During discussions on the 1822 Police bill in October 1821 it was learned that over the year May 1820 to May 1821, a total of one hundred and twenty-eight juveniles under the age of 14 years had been committed to the Bridewell by the Police Court, including one individual nineteen times and another twenty times. Some Commissioners sought a clause in the bill to enable the private whipping for juvenile delinquents in a room beside the Police Court on the grounds that it would have, 'a refraining and corrective effect on conduct and that it would have the advantage of being summary and occasioning little trouble or expense'. However the majority of Commissioners took the view that such punishment would 'vitate and harden instead of reforming' juveniles and therefore the clause was not included.<sup>69</sup>

In November 1823 after discussion of a Visiting Committee report that thirty to forty persons were being confined daily at the Main Police Office prior to their appearance in

Court, the Commissioners appointed a committee chaired by the Lord Provost to consider whether a better system of punishment for young offenders could be devised and whether it would be expedient to establish a House of Refuge. The Committee reported the following month that:

Confinement of young delinquents in the Bridewell does not seem to have any effect which is, and always ought to be the great object of punishment in the prevention of crime

It proposed that solitary confinement ought to be imposed for a week or two at most, rather than the practice of exposure for a month or two to the 'contaminating influence of intercourse with those of a more depraved character'. The Committee having consulted with the Lord Justice Clerk and Lord Advocate also recommended the establishment of a House of Refuge. They indicated willingness to support any application to Government for the use of Queensberry House in the Canongate for this purpose, and this was approved by the Commissioners.<sup>70</sup>

By August 1824, the Committee submitted a detailed plan for a House of Refuge which was unanimously approved by the Commissioners. Enquiries had been made with the Governor of the House of Correction in Belfast which managed thirty-seven boys, and with William Brebner who was conducting a similar experiment with young people in the Bridewell at Glasgow. The Committee was impressed by the work of Brebner who had gained the support of Glasgow manufacturers to have the inmates undertake the weaving of coarse webs as a source of training and income for their keep. Many of the Glasgow inmates were committed for periods of twenty to sixty days only, and although it took six weeks to be taught weaving, the Glasgow institution was successful in making 'profligate persons support themselves by work'. However the committee proposed that the House of Refuge in Edinburgh should focus on a maximum of thirty boys in the 12 to 18 years age group, who were orphans, and that they should be resident for periods of two to three years in order to receive basic education as well as training. The plan included the appointment of a committee of management, an overseer and assistant, and the services of a school master for one hour each day, the acquisition of Queensberry House and the purchase of thirty weaving looms.<sup>71</sup>

The final major interest of the General Commissioners relating to public safety and well-being which developed over this decade concerned public health hazards. Typhus fever epidemics had occurred in the city in 1817 and 1818, but the most severe epidemic during this period by far was cholera in 1832. As early as November 1831, a Cleansing Committee report referred to the cholera ravages throughout most of Europe and the death of a Sunderland man in the previous month. An ad hoc committee of seven, chaired by a Residential Commissioner James Aitken, was formed to liaise with the directors of the water company to ensure additional supplies of water for the poorer classes and for the purpose of regularly washing down streets and closes. Following advice from the London Board of Health, an Edinburgh Board of Health was established later that month. The Edinburgh Board conjoined with the Commissioners to set up a Health Inspector and one or two medical practitioners in each Ward for the purpose of containing and controlling the spread of cholera, not 'should' but 'when' it arrived.<sup>72</sup>

The prediction was accurate for the first case of cholera in Scotland was diagnosed in December 1831 at Haddington. Given the travel route of people on the 'great north road' from London, the disease spread during January 1832 through the towns of Tranent, Prestonpans, Cockenzie and Musselburgh towards the city. By 28 January 1832, the *Scotsman* was able to report that cholera had been confirmed in Edinburgh. Almost every newspaper for the remainder of 1832, updated on the 'cholera morbus' accounting for new cases discovered throughout Scotland. During the epidemic, the Edinburgh Board of Health co-ordinated measures to distribute handbills with preventive information, remove actual or suspected cases to dedicated cholera hospitals, destroy dirty and infected clothing, and ensure proper burial arrangement for those who died. By mid November 1832, the cholera epidemic began to subside in Edinburgh. On 24 November 1832, the *Scotsman* provided the updated total for the city - 1,054 deaths out of 1,861 notified cases. Despite the high mortality the response by the General Commissioners to the health threat demonstrated the generic meaning given to the system of police, which involved any risk to the public.<sup>73</sup>

## THE 1822 FORCE IN OPERATION

The 1822 Act for regulating the City of Edinburgh Police came into effect on Monday 24 June 1822 with the election of new Residential and General Commissioners. The new General Commissioners met for the first time on 8 July 1822 in the Council Chambers. Apart from the change of Superintendent, there was an uneventful transition, with the new committees more or less continuing the business already in train.

One of the main items of business at that time was the need to find more adequate accommodation for the Main Police Office due to the volume of prisoners being processed. In April 1822 during the dispute between elected and non-elected Commissioners, it was disclosed that a total of £3,000 had been spent since 1813 on the Main Police Office within St Giles Church. In May 1822 a committee was appointed to secure a new Main Police Office and by September 1822 the Commissioners agreed to purchase the vacated Royal Bank of Scotland premises in Old Stamp Office Close in the High Street, for the sum of £3,500.<sup>74</sup>

Within three weeks of the purchase, the Committee on the New Police Office produced detailed plans for conversion work. The ground and first floors of the building were designed to hold twenty ordinary cells, nine single cells and three dark cells for prisoners who required 'a little wholesome restraint'. A special reception room would also be available for the examination and searching of all prisoners before being placed in the cells. A Courtroom was planned for the second floor level, with seating to accommodate up to sixty persons and separate rooms for the Superintendent, the lieutenants and witnesses. On the third floor a large room was designed for meetings of the Board of Police, and the fourth floor was to be turned into a comfortable house for the Superintendent. Finally, the fifth floor was to be converted into twelve small apartments for prisoners detained until caution was found after appearing at Court. The plans were agreed and submitted for approval to Thomas Brown, Superintendent of Works for the



Town Council. In January 1823, the lowest tender of £1,500 for the necessary conversion work to be completed by June 1824 was accepted.<sup>75</sup>

Despite the intended entry date the Commissioners met for the first time in the new Main Police Office in February 1824 whilst conversion work still continued on the cells area. The Committee produced regulations for the Main Police Office before it opened on Tuesday 20 April 1824. The eighteen regulations printed for public information, required inter alia; the keeping of a book in the Receiving Room in which details of all prisoners detained for trial or liberated on bail should be kept, including the charges libelled and witnesses concerned (regulation 1); that turnkeys should pass along the lobby of each range of cells once every hour, and enquire audibly whether any of the prisoners require attention (regulation 8); that the Police surgeon should record once every twenty-four hours in the Visitors Book, the health and condition of prisoners (regulation 11); and that the Visiting Commissioners similarly minute the condition of the cells, prisoners and office generally (regulation 12). The 1824 regulations catered for every need for prisoner welfare. The final account for the new Main Police Office amounted to £6,195 and included a bill of £115 to the directors of the Royal Blind Asylum in Nicolson Street for supplying mattresses.<sup>76</sup>

The meticulous attention to prisoner care paid dividends, for deaths in Police custody were rare given the volume of prisoners processed. The first death of a prisoner in Police custody occurred in March 1827 when a male was found hanged in his cell. The report by the House Committee acknowledged the suicide but attached no blame to the Police under the circumstances. However the second death in Police custody in February 1830, involved a woman whose medical deterioration occurred at a watchhouse and the investigation led to a revision of custody rules. The enquiry by a sub-committee into the death established that the woman had been found lying in a state of exhaustion at Boroughmuirhead by members of the public. Two watchmen conveyed her in a wheelbarrow about ten o'clock to West-Port watchhouse and placed her on a bed with a fire. When her condition deteriorated about four o'clock on the Sunday morning, the officers decided to convey her to the Main Police Office and call the police surgeon. The

woman was found to be dead before his arrival about seven o'clock that morning. The incident led to the regulations for the Main Police Office being revised and an additional female turnkey being appointed in April 1830.<sup>77</sup>

In 1822, district watchhouses were still located in the New Town (Assembly Rooms in George Street) and at Canongate, Park Place (rented from Board of Customs since 1805), the foot of Calton Hill and Portsburgh (West Port). In 1823, a new watchhouse was purchased in Calton for £150 on account of the public activity associated with the Theatre Royal and in 1824 the Portsburgh watchhouse was relocated to 7 Fountainbridge which was a converted shop. In 1828, the directors of the Assembly Rooms served notice to quit and the district watchhouse was relocated to a rented shop and house at 63 Rose Street. By 1833 a new watchhouse in St Leonards for the Southern Districts replacing Park Place, was approved at a cost of £800.<sup>78</sup>

Whilst the district watchhouses continued after 1822, the elaborate system of watchboxes had already been reduced. After the auction of sixty-seven watchboxes by public roup in March 1821, only one watchbox remained in each of the thirty wards in the city. The Commissioners did not accept the recommendation of Superintendent Robison in November 1822 to dispense with the remaining watchboxes, but there is no evidence to suggest further watchboxes were added to the establishment before the next Police Act in 1832 increased the number of Wards in the city.<sup>79</sup>

Whilst the role of the Superintendent remained the same under the 1822 Act, the operational deployment of the lieutenants was restricted according to their numbers. Following the reduction of the Captain Lieutenant rank in October 1820, the three remaining lieutenants took charge of the Main Police Office for a twenty-four hour period every third day. When the rebel Commissioners decided to reduce the numbers of lieutenants by one from January 1822 Lieutenants Young and Baird each in turn took charge of the Main Police Office for a twenty-four hour period. The decision by the elected Whig Commissioners to operate with two lieutenants was like others taken over the period from October 1820 to July 1822. Whilst the Whig Commissioners had the ascendancy

through majority voting, their decisions were tainted with a political gesture of contempt against the non-elected Tory members.

Expediency prevailed again in August 1822 when the system of three lieutenants was reconstituted by the appointment of a Lieutenant Cameron, but this also paved the way for the introduction of the Visiting Committee system in October 1822. The format of a Captain Lieutenant working a constant twelve hour tour of duty day shift, deputising in the absence of the Superintendent and taking particular interest in the investigation of reported informations (crimes), with the other three lieutenants each taking in turn a twenty-four hour tour of duty at the Main Police Office commenced again after April 1828. It was the practice of the three lieutenants to start their tour of duty at four o'clock each afternoon. Being based at the Main Police Office meant that the lieutenants had a key role in the management and supervision of all prisoners kept in custody. Thus in the new regulations for the Main Police Office issued in April 1830:

- all prisoners had to be brought before the duty lieutenant who had to confirm their custody on charges, bail or release from detention; and
- the lieutenant starting duty each day had to visit all the cells paying particular attention to the situation and classification of the prisoners.

A Book for House Remarks was kept for these purposes.<sup>80</sup>

Despite the marginal increase in manpower, the variated deployment of serjeants, daymen and nightwatchmen stationed at watchhouses and a reduced number of watchboxes, probably resulted in increased operational isolation. Whilst Superintendent Robison placed greater emphasis on mobile patrols rather than a system linked to static watchboxes the Police became less visible to the public. The issue regarding the visibility of the Police in the absence of an identifiable uniform is not minuted and probably was never considered. From the public viewpoint, the ability to contact an officer at a local watchbox at certain hours would have been convenient and may have perhaps inspired confidence as a means of gaining assistance. Indeed the absence of apparent and obvious visibility may well have contributed to the idea of having the Police uniform, as

much as the philosophical idea that officers in uniform would help deter criminals and thus prevent crime.

If the Police after 1822 experienced an increased operational isolation, there is no evidence to suggest that officers were exposed to higher levels of individual attack or group violence. In terms of welfare, the 1822 Act specifically authorised the payments of money to any officer at any time 'disabled or wounded in the execution of his office', or in the event of an officer being killed, the continuation of ordinary pay or wages to any widow or children until the next meeting of Commissioners reviewed the case. So for example in April 1825, a petition submitted by a widow McConnell, revealed that her husband had six years service when he had been severely disabled in a disturbance during 1819 in West Port, for which she and her two children had received a 7/6d weekly allowance. She sought continuing support after he had died in March 1825 and this was granted. Apart from another King's Birthday riot in 1824, a 'wanton' attack on some police officers in November 1823 led the Commissioners to plan a £50 reward for information leading to apprehension and conviction of the persons responsible. In February 1829 a dayman injured on duty without minuted circumstances, was given a 7/- weekly allowance until able to resume. Despite the generous benefits, petitions for relief were scrutinised and only awarded in genuine cases. Estimates for the disabled watchman/widow pensioner fund amounted to £40 for the year 1830-1831 and this supports the view that serious injury on duty did not present a prevalent problem for the new Police.<sup>81</sup>

On occasions it was the Police who were alleged to perpetrate violence. The most serious case involved three nightwatchmen who were tried for the murder of a scavenger but acquitted and sought reinstatement in January 1825. In February 1825, Superintendent Robison dismissed a serjeant after investigating a complaint of assault against a broker in the Cowgate. The most protracted complaint investigated appears to have been against Lieutenant Baird who in October 1825 was alleged to have threatened to lock up a respectable resident without just cause. A report into the circumstances was submitted by Superintendent Robison to the Commissioners the same month. However in December 1825, Lieutenant Baird submitted a letter to the Commissioners, which referred to his

exemplary service over ten years, and having 'accidentally' heard that he was being investigated, wished to be called before the Commissioners to hear what charges were preferred in order that he could respond. The saga came to an end in May 1826 with his dismissal. Despite another letter requesting an investigation into the circumstances of his dismissal, the Commissioners informed him that they would not interfere with the discretion of the Superintendent. Indeed the need for the Superintendent to be able to execute summary discipline was recognised by the Commissioners for in June 1828 he was authorised to levy fines on watchmen for 'misconduct or any delinquency' as an alternative to prosecution.<sup>82</sup>

As regards operational effectiveness, one of the major challenges for the Police under Superintendent Robison, was to ensure security during the Royal visit of George IV in August 1822. As soon as the visit was confirmed, Sheriff Depute Duff corresponded with Home Secretary Peel in July 1822, seeking the assistance of Bow Street officers. Sheriff Duff thought it:

Necessary that two or three Bow Street officers who know by sight the principal London pick pockets should be in Edinburgh for the purpose of pointing them out to the officers of the Edinburgh Police.

Peel responded by sending four officers - John Townsend, John Sayer, John Vickery and Daniel Bishop to Leith by steamship four days before the King's departure. In fact once their arrival had been reported, little attention was paid to them. Sheriff Depute Duff reported on the security plans to a special meeting on 8 August 1822. The plans included the streets being lighted all night long and erected barriers to marshal spectating crowds. Superintendent Robison was authorised to employ one hundred supernumerary officers during the visit from 15 until 29 August to ensure the ceremonial occasions were properly policed. The visit was reported as a joyous occasion for the large crowds, but no doubt the squadron of Scots Greys and Dragoon Guards which accompanied every movement of the king's carriage, not only provided a spectacle but an effective personal protection arrangement. Peel himself travelled to Edinburgh in advance of the King and after residing at Melville Castle, moved into the Waterloo Hotel when the King was in residence at the Palace of Holyroodhouse.<sup>83</sup>

## THE 1826 AMENDMENT ACT

Despite the comprehensive consolidation of measures in the 1822 Act, certain misunderstandings and legal difficulties in prosecuting offenders in the Police Court which arose during 1826, caused the Commissioners to seek an amendment Act. Under the 1822 Act, the Police Court continued to function with a single Bailie or Old Bailie sitting as judge of first instance. The Police could accept bail not exceeding £10 from persons apprehended, but persons taken into custody were required to be presented in court, the next lawful day. The main benefit of the Police Court continued to be the summary form of prosecution with evidence viva voce without the need for written pleadings. However the range of penalties which could be imposed on offenders were limited to damages to complainers not exceeding £5 and fines on offenders not exceeding £10 with imprisonment in either the Tolbooth or Bridewell not exceeding 60 days; and caution for good behaviour not exceeding £20 with the proviso that all pecuniary penalties recovered had to be applied to the expenses of keeping prisoners.<sup>84</sup>

In February 1826, Sheriff Depute Duff informed the Commissioners that doubts had arisen about the legality of the Bailies sitting as Magistrates in the Police Court disposing of more serious crimes beyond simple theft. The original intention of the 1812 and 1822 Acts had been to restrict the jurisdiction of the Police Court to offences and petty crimes under a fixed value, and remit more serious crimes like robbery and housebreaking appropriately to either the Bailies or the Sheriff Depute to be 'tried by them in their own proper Court, or be sent by them to the Justiciary Court'. Although there was a provision in the 1822 Act for such remittance and notice by the Superintendent to the appropriate Procurator Fiscal, a degree of confusion had developed in respect of the powers of the Bailies who had jurisdiction in their own Criminal Court as well as the Police Court. Sheriff Depute Duff reported that he had already met with members of the Law Committee to discuss the ambiguity and his decision as a matter of expediency to apply to Parliament for leave to bring an amendment Police bill was supported by the General

Commissioners. The committee appointed, produced the draft bill in March 1826 and it was forwarded to Parliament the following month.<sup>85</sup>

The 1826 Act had twenty-six sections and came into effect on 26 May 1826. Many of the sections repeated the duties of the Police, the Judge in the Police Court and the Superintendent in respect of initiating prosecutions. The new sections required the clerk to submit quarterly lists of all persons remitted to the Procurator Fiscal for the higher Court. The Procurator Fiscal in turn was required to add disposals to these cases before onward transmission of the schedule to the Crown Agent for the information of the Lord Advocate. A new section detailed the jurisdiction of the Police Court, in terms of specific crimes which it could not determine.<sup>86</sup>

## **SOCIETY OF HIGH CONSTABLES OF THE CITY OF EDINBURGH**

Between 1822 and 1833 the High Constables functioned in much the same manner as they had since 1810 under the direct control of the Lord Provost and Bailies. The Society of High Constables increased in 1820 from sixty to one hundred members, but a review by the Town Council in July 1822 recommended a reduction to their original sixty members, this was effected from June 1823. Forty members with over three years service were retired immediately, it took a further three years allowing only twenty members to retire each year, before the system of triennial rotation was re-established.<sup>87</sup>

In March 1828, a new set of Instructions and Regulations for the Society of High Constables were issued by the Town Council, to replace the Instructions dated March 1786. Their powers remained largely the same but took account of the fact that when persons were apprehended, they should be committed to the custody of the Police until examined by the Magistrate. A new provision was included for the avoidance of any doubt in public processions when attending to the Lord Provost and Magistrates. It was declared that the High Constables had 'precedency' in the procession as it moved, over other similar constables of Canongate, North and South Leith, and Easter and Wester Portsburgh. Importantly however, the new Instructions contained practical guidance in the

event of riot or serious fire in the city. On the first report of riot, the High Constables were to assemble immediately at the Royal Exchange to receive the orders of the Lord Provost or Bailies. In the event of a large fire, it was the responsibility of the Society Moderator to call out sufficient numbers of High Constables to assist the Police in preserving public order and protecting property.<sup>88</sup>

In March 1828 the Town Council also confirmed the designation of the Society and its exclusive membership when it enacted that 'no one but a burgess, and who has been three years in business, shall be appointed a High Constable'. Whilst the constitution and management of the Society was regulated by the Lord Provost and Town Council, the Society itself declared its own rules for administrative purposes and these imposed fines on members who without good reason failed to attend or neglected duties or Society business.<sup>89</sup>

Despite having powers beyond the ordinary citizen to apprehend the disorderly and to pursue and arrest those suspected of having committed 'atrocious' crime, there is no evidence to suggest that the High Constables regularly exercised these powers after 1805. Yet whilst not active in the prevention and detection of crime and offences, the High Constables undoubtedly performed a valuable service when called out to supplement the new Police in the maintenance of order. They actively assisted the regular Police on 23 April 1824 to assist in the suppression of riots associated with the Kings Birthday celebrations and again between the 15 -17 November 1824 during the 'great fires' in the High Street. The following month they assisted in quelling disturbances between the lower classes of citizen and the Irish inhabitants in the city. They were deployed as a matter of routine at public executions and on the evenings of the King's Birthday and hogmanay.<sup>90</sup>

The high point of their ceremonial role during this period was undoubtedly in connection with the Royal visit of George IV. During the arrival procession on 15 August 1822, the High Constables commanded the street at Picardy Place where the 'Keys of the City' were handed over by the Lord Provost. They undertook duty on five occasions during the visit including the supervision of the main avenues leading to Parliament Square where the



banquet was held, and lining the street between the Royal Exchange and St Giles Church where the King attended divine service. Whilst the High Constables in Edinburgh were destined to continue their ceremonial role under the charge of the Lord Provost for years to come, the increasing effectiveness of the regular new Police made their law enforcement service redundant. Nevertheless they continued to be useful in the maintenance of civil order. So much so, after a period of popular excitement and agitation for parliamentary and burgh reform, in May 1831 the Town Council again increased the Society to one hundred members.<sup>91</sup>

## TOWN OF LEITH

Having missed the opportunity in 1820 to join in the Police bill promulgated by Edinburgh, the Leith Commissioners were content to continue operation of the 1806 Act. Voting for the thirty-five Leith Commissioners fluctuated annually for no apparent reason other than apathy. Thus whilst one hundred and twenty-eight heritors exercised their franchise in December 1822 only thirty-two voted in 1825. The first meeting of the newly elected Leith Commissioners in January each year involved the appointments to the well established system of standing and territorial committees.<sup>92</sup>

Annual assessments under the 1806 Act continued at 5% for both North and South Leith until the new Leith Municipal and Police Act was obtained in 1827. Annual income and expenditure in Leith after 1822 remained fairly static, reflecting the fact that there was little growth in either population or house building. Thus while over 1822 - 23 income of £3,090 was received and £3,029 was discharged, over 1826 - 27 income of £3,492 was received and £2,627 discharged. Just as overall income and expenditure remained static, so too did spending under the watching, lighting, cleansing, water and paving services. A Master of Public Works was appointed in May 1823 and by October 1826, the Paving Committee reported that all lanes, streets and houses had now been named and numbered. In July 1822 a private Act was obtained to enable the formation of the Leith Gas Light Company and in May 1824 the company was given a ten year contract to supply gas for public lamps.<sup>93</sup>

Intendant of Police William Ross who was appointed in April 1819 on a salary of £150, continued in office until his death in 1827. He appears to have had the confidence of the Leith Commissioners, for apart from occasional instructions and remits for enquiry, no dissenting views or censure motions on his actions are recorded in the period minute book. The appointment of the Master of Works in 1823 enabled the Intendant to devote more time and to focus more directly on the prevention and detection of crimes and offences. The only other ranks in the Leith Police were that of two assistant Intendants, each holding the rank of serjeant major, who were appointed in July 1814 to function at the watchhouse and courthouse in the Old Tolbooth. After Serjeant Major James Thoms retired in July 1822, Serjeant Major John Howie continued to serve alone in the conjoined post until 1827.<sup>94</sup>

The fifteen night watchmen appointed in January 1817 continued to function with the four Town Officers who were day constables attached to the Court. In April 1825 the Leith Watching Committee supported a claim of an extra 1/- per week for watchmen. However after agreeing to the wage rise, the Leith Commissioners reduced their numbers to fourteen. Importantly, the Leith Police continued to be provided biannually with establishment uniform including boots and when an issue was made in February 1826 the Commissioners decided that the old watchcoats should be given to the town scavengers.<sup>95</sup>

In May 1824 the Leith Commissioners pressed for a new Police Office and Lockup House since the Tolbooth (built 1565) was in a ruinous and dangerous state. The decision was taken to demolish the Tolbooth and build a new Court Room and Police Office on the cleared site. As a consequence the Leith Bailies petitioned the Court of Session and High Court of Justiciary and gained authority to commit civil debtors and criminals to Edinburgh Jail until the building was complete. The temporary relocation of the Police Office and Lockup House is not minuted, but presumably it was rented accommodation. In any event when in May 1826 the Watching Committee reported that the Police Office and Lockup House 'ought to be more properly ventilated', the Commissioners deferred any additional

work since the establishment was due to move soon back into the new purpose built building. A new Town Hall was also built and opened in 1828, which still stands at the corner of Constitution Street and Queen Charlotte Street. However it was only when the functions of the Leith Police Commissioners were conjoined in the Town Council that the decision was taken to transfer the Police Office, Lockup House and Court House to Leith Town Hall.<sup>96</sup>

The need for a new Police Act for Leith developed from the most pedantic of circumstances. At a meeting in October 1826, the Commissioners were informed that Edinburgh Town Council had appointed the new Leith Magistrates without waiting for the usual recommendations from the town. This was viewed as a great insult, and resolutions were ordered to be published in the Edinburgh newspapers in 'opposition to an oligarchy' which had deprived the town of their voice. When the Commissioners met again a fortnight later, a Commissioner named Robert Philip drew attention to the imperfect state of the Police and the defects in the 1806 Act. The Commissioners resolved to promote a new Police bill for Leith and established a committee for that purpose.<sup>97</sup> By December 1826 the committee presented the draft Police bill to the Commissioners, and in January 1827 it was forwarded to both the Lord Advocate and Sheriff Depute for information as well as to solicitors in London for presentation to Parliament. In June 1827, Town Clerk John Veitch and six Commissioners travelled to London to progress the Police bill. The Leith Municipal Government and Police Act 1827 gained Royal Assent on 2 July and came into effect six weeks later.<sup>98</sup>

The Leith Municipal Government and Police Act 1827 with one hundred and fifty-five sections was essentially structured and modelled on the Edinburgh Police Act but without limit of time. The town of Leith was divided territorially into ten Wards and a system established of elected and non-elected ex-officio Commissioners responsible for putting the Act into execution and taking the major policy decisions. The non-elected ex-officio Commissioners were the Lord Provost, Dean of Guild and four Bailies of Edinburgh; together with the Admiral and Baron Bailie and three Bailies of Leith, the resident Bailies and Treasurer of Canongate, the Lord Advocate, the Sheriff Depute and Substitute, the

Bailie of Saint Anthony's and the Masters of the four Leith Incorporations. Two elected members were allowed from each Ward therefore the ratio of elected to non-elected members was 20:21 (i.e. almost 1 to 1). Although there were two named Commissioners for each of the four Incorporations and for each Ward at the commencement of the Act, annual elections commenced in June 1828 for replacement Commissioners holding property valued £15 or more of yearly rent. Although the franchise was restricted to residents with the same qualification the Whigs in Leith or Edinburgh do not appear to have contested this issue in the manner followed in 1822.<sup>99</sup>

The most important provision of the 1827 Act was the creation of a Sheriff Substitute for Leith, appointed by the Sheriff Depute with the approbation of the Lord Justice Clerk. A further provision enabled the Judge Admiral of Scotland to vest in the Sheriff Substitute the powers of Admiral Depute and thus extend his jurisdiction over the port of Leith and all vessels therein. The additional salary of £200 was paid by the Leith Commissioners. The first and only resident Sheriff Substitute for Leith was Duncan Matheson, an Edinburgh Advocate. He was appointed in September 1827 and held regular Courts for the full administration of both civil and criminal justice until he died in office in 1838.<sup>100</sup>

Like the Edinburgh Police Superintendent, the Leith Intendant prosecuted in the public interest before the Magistrates. His jurisdiction extended to the less serious crimes, and all offences made under regulations allowed by the 1827 Act. Again the 1827 Act detailed the crimes which had to be presented to the Procurator Fiscal for prosecution in a higher Court.<sup>101</sup>

The annual appointment of the Admiral Bailie and Resident Magistrates of Leith was obviously a point of principle and ancient custom for the Leith Commissioners. The 1827 Act provided that on the first Thursday after each Michaelmas the Admiral and Resident Magistrates of South Leith, the Masters of the Four Incorporations together with 'every person' who at any time held the office of Resident Magistrate of South Leith, should assemble in the Council Chamber to choose a leet of nine persons qualified to hold office, which would be forwarded to the Lord Provost. Although Edinburgh Town Council would

elect the three Resident Magistrates for Leith, in 1827 provisions were arranged for the senior Resident Magistrate to vacate office each year commencing 1828, and for a similar arrangement for Edinburgh to appoint a replacement annually from a leet of three persons.<sup>102</sup>

The levying of rate assessments not exceeding 1/6d in the pound (i.e. 7.5%) on all property valued at £3 or more in yearly rent was slightly higher than the 1822 Edinburgh Act, but appears to have been tolerated if not welcomed as a means of achieving improvements in the Police and system of police for Leith. As a result of the increased value, rate income for 1827/28 amounted to £4,514 on a rental value of £60,129. This extra income enabled the Commissioners to strengthen the Police and introduce other services such as an Inspector for Roads at a salary of £40 and Master of Fire Engines at a salary of £66 per annum. Town Clerk John Veitch finally retired after twenty years service in 1828 and a John Harvey was appointed in his place at a £40 salary.<sup>103</sup>

Although the minute books of the Leith Commissioners after 31 July 1827 are missing, scroll books are extant and they provide fragmentary evidence of the major policy decisions under the 1827 Act. After the death of Intendant Ross, Lieutenant James Stuart from the Edinburgh Police was appointed Intendant of Police in Leith on 17 August 1827. He immediately set about reorganising the Leith Police as shown in Figure 5F.

**Figure 5F - Leith Police Establishment (1827)**

Rank	Weekly Wages
1 serjeant major	20/-
3 serjeants	16/- each
4 daymen	13/- each
5 night patrole	12/- each
14 watchmen	14/- each

Source: L.P. Minute Book (1828-1834) p23.

In September 1828 a dedicated 'criminal officer' was introduced into Leith Police, following the initiative of Stuart when he returned to Edinburgh. James Stuart was obviously a career minded officer, for he applied for and became Superintendent of Police in Edinburgh in April 1828. An H.G. Denovan was appointed Intendant of Police and he held office until resignation in April 1832. Whilst the surname is the same, it is not known if he was related to the first Intendant James Frederick Denovan from 1808 to 1814. Intendant Denovan gained authority for five additional watchmen in October 1831, but intimated to the Commissioners his intention to resign after they decided in January 1832 to reduce manpower back to the 1827 level. Denovan was replaced by Serjeant Major Andrew Angus who was promoted Intendant in May 1832.<sup>104</sup>

Whilst the 1827 Act enabled Leith Commissioners to appoint an Intendant at their pleasure, he was responsible for appointing watchmen for 'guard, patrol and watch' in numbers determined by the Commissioners. Following the terms of the 1822 and the amending 1826 Act for Edinburgh, the 'Intendant, Watchmen and other officers of Police' were authorised:

To apprehend, seize and detain all persons who shall be found within the said Bounds actually committing any criminal, riotous, or disorderly Act ... and all and every Vagrant, idle or disorderly or suspected Person who may be found within the District, in order that such Person may be examined and disposed of by the said Magistrates or Sheriff Substitute.

Finally the 1827 Act directed the Police to assist in suppressing disorderly houses, mobs and riots, in extinguishing fires, and enforcing regulations in respect of brokers, hackney coaches, sedan chairs, carts, waggons, porters and meters of corn.<sup>103</sup>

Although the Society of Leith High Constables under the control of the Bailies continued to exist and function between 1822 and 1833 there are no society minutes extant for this period. Other than their ceremonial role, as when they took pride of place during the visit of George IV in August 1822, there is no evidence to suggest that they regularly and routinely involved themselves in the detection of crime and offences.<sup>106</sup>

## JUSTICE OF THE PEACE COURT AND COUNTY CONSTABLES

The main Justice of the Peace Court for the remaining shire continued to sit in Edinburgh whilst Small Debt Courts held by justices were located at Dalkeith and Musselburgh. After the main JP Court was located in the County hall building in 1817, the term 'county constable' became more fashionable in petitions to the Court Roll of Constables. Admission to the Roll of Constables was by petition to the JP Court and since there was a fixed number, new appointments were made only after the resignation or dismissal of existing members. Resignations or dismissal were rare, therefore the practice developed of having a 'list of expectants'. Two constables were dismissed for misconduct in May 1823 but the reason is not minuted. In March 1824, the JP's agreed that in future, petitions for admission to the Court Roll of Constables should 'lie for one month on the table' after presentment and that notification of the application should be made to other constables on the roll. The rotation of membership was such that in May 1826, three petitions for office were refused; in October 1827, one petition was allowed to be added to the 'list of expectants'; and in October 1833, from six petitions, one was accepted and one was added to the 'list of expectants'.<sup>107</sup>

The appointment of other county constables continued on an ad hoc needs basis and even then, the appointment of 'ordinary' constables based at the JP Court was distinguished from the employment of part time 'extraordinary' constables to keep law and order in the various parishes outwith Edinburgh and Leith. It is known that ordinary constables were based in Dalkeith and Musselburgh where JP Small Debt Courts were located, but as in the case of the main JP Court based in Edinburgh, the number of constables retained is not minuted. Thus in November 1831 the Chamberlain for Dalkeith requested that the Justices supply names of thirteen persons to fill vacancies which had arisen in the Society of Constables for Dalkeith. As regards the appointment of extraordinary constables, these were relatively rare and invariably made by Sheriff Depute Duff. Thus in January 1824, five constables were appointed in the Parish of Liberton; in November 1824 a replacement constable was allowed for Canonmills area; in October 1827 nine constables were appointed for the Trinity, Warriston and Inverleith areas to the

north of the city; in November 1827 seventeen constables were appointed for the village and parish of Penicuik; and in November 1829, twelve constables were appointed for the village of Hopetoun. The appointment of extraordinary constables continued to be on a part time basis, and applications and appointments invariably designated the current employment which ranged from school masters, innkeepers and farmers to tradesmen like masons, wrights and bakers.<sup>108</sup>

The minute book of the Justices of the Peace for the County of Midlothian after 1822 contains more business concerning law and order in the shire than hitherto. Following the King's Birthday riot on 22 April 1822, a committee of JP's chaired by Sheriff Depute Duff reported that riot damage claims from inhabitants amounted to more than £200 and a special rate assessment was raised on properties subject to the Government Tax and Cottage Tax. The eight sub-collectors of the Government Tax were appointed constables for the purpose of collecting this rate assessment. In August 1822, in preparation for the Royal visit, Sheriff Depute Duff appointed the whole of the Edinburgh Police establishment to be extraordinary constables for the county during the period of the King's stay. Finally much time was spent by a committee of JP's over the period 1826 to 1827 agreeing the cost to be met by the county in building the new Bridewell.<sup>109</sup>

Although a public Act in 1833 enabled the burghs in Scotland to establish a general system of police similar to that in place in Edinburgh and Leith, there is no evidence to suggest that Musselburgh or Dalkeith moved immediately to adopt the new system. Neither the JP's nor Commissioners of Supply make reference to the 1833 Act or indeed any plans to reform the Police in the county before 1838. An Act in 1839 enabled the Commissioner of Supply to make an additional 'rogue money' assessment for maintaining a 'Constabulary Force in the County for the Prevention of Crime' and this appears to have been implemented about 1840.<sup>110</sup>



## LAW AND ORDER

The need to eradicate vagrancy, to bring about street order by prosecution in the public interest a range of petty crimes and offences, and to detect the more serious crimes of murder, robbery and housebreaking continued to be themes debated over the period 1822 to 1833. By 1822, the new Police and system of police was so well developed as an institutional means of detecting offenders for prosecution in the criminal justice system, that the benefits were almost taken for granted. The number of summary prosecutions were de facto justification of the need to maintain street order which provided a sense of *greater security of the person and property*. Issues such as *poverty and recidivism* were never mentioned by the Commissioners in Edinburgh and Leith, let alone debated, and the need for the new Police and system of police was not challenged in any newspaper or journal article, whether of Tory or Whig influence.

The Society for the Suppression of Begging formed in 1812 continued to function but had no regular contact with the Commissioners during the years that followed. Vagrancy became more visible again early in 1824, probably on account of Irish immigrants who settled in the city after the completion of the Union Canal. A committee of General Commissioners met with the Society directors in February 1824 after the Society had been critical in some newspapers of the lack of action on the part of the Police. Both sides agreed to cordially support each other 'in promoting the common object of suppressing begging which in many instances served as a pretext for thieving and a cover to idleness'. By March 1824, Superintendent Robison reported that 'a vast number of beggars, chiefly Irish' had been dealt with since his last report.<sup>111</sup>

The issue of vagrancy did not arise again until the Society for the Suppression of Begging requested direct assistance from the Police in February 1831. Although the new circumstances are not detailed, the General Commissioners agreed to provide two Police officers for a period of three months dedicated to the suppression of street begging. In May 1831, the Society requested that the two officers be allowed to continue with their tasks, but no decision is minuted. Vagrancy was therefore a permanent feature of early

19<sup>th</sup> century society in Edinburgh and there was a perceived need to periodically suppress idle street beggars. It is difficult however to explain the reasons for the emergence of the new Police in terms of the need to suppress vagrancy alone<sup>112</sup>

Rather than detail the number of prosecutions each year before the Police Court, the practice in the accounts kept under the 1822 Act was to detail yearly the number of prisoners committed to the Tolbooth or Bridewell together with the total number of days committed in order to compute the cost of aliment against pecuniary penalties recovered. Thus Figure 5G shows the data collected for the period 1821 to 1827.

**Figure 5G - Committals to Prison 1821 to 1827**

Year	Number of Prisoners	Number of Committal Days
1821-22	1,215	47,738
1822-23	1,622	58,013
1823-24	1,622	59,829
1824-25	1,263	49,233
1825-26	1,053	42,972
1826-27	813	30,663

Source: Abstracted from available annual accounts.

The fact was that recovered fines never covered the cost of prisoners. So for example when in 1822-23 the cost of maintaining prisoners amounted to £1,312, only £848 had been recovered in fines; and again in 1823-24 when the cost for prisoners was £1,335, only £822 had been collected in fines. The deficit each year of course became a charge on the establishment funds.<sup>113</sup>

Offenders committed to the Tolbooth or Bridewell were of course only a fraction of the numbers who appeared in the Police Court. Although no precise records are minuted for this period, it can be estimated that an average of 6,000 to 7,000 prisoners appeared each year. In November 1823, the Visiting Committee complained of the 'prodigious' state of the Main Police Office which had thirty to forty persons confined at one time with sometimes fifty persons huddled together before appearing in Court. Later in January 1830 when the Commissioners examined the workload of the Clerk of Police, it was

established that he had processed 7,000 cases over the previous year. At the same time, not every case appeared at the Police Court. A small proportion of more serious offenders were presented directly to the Procurator Fiscal in the Sheriff Court which imposed higher penalties. Thus in his quarterly report in February 1829, Superintendent Stuart mentioned that since his last report in November, ninety-four cases had been 'remitted to Superior courts'. Although no Sheriff Court records are extant, Figure 5H shows the number of persons prosecuted for serious crime in Edinburghshire and Scotland over the period 1822-1833.

**Figure 5H - Number of Persons Prosecuted for Serious Crime (1822-1833)**

Year	Edinburghshire	Rest of Scotland
1822	87	480
1823	60	521
1824	43	676
1825	75	398
1826	200	640
1827	102	555
1828	97	674
1829	139	675
1830	130	556
1831	156	685
1832	197	748
1833	171	776

Source: Records of the Lord Advocates Department, Vol. 2 (1820-1825) and Vol. 3 (1826-1833) - SRO AD14

Although a significant proportion of these cases would be prosecuted before the Sheriff and Jury Court, there is still an appreciable rise in prosecuted serious crime both over the decade and over the previous decade. At the same time, it has to be appreciated that prosecutions on petition for serious crime in Scotland represented only a fraction of the total summary prosecutions for less serious crime. For example, the *Scots Magazine* reported that in 1824 the Sheriffs heard 22,074 cases throughout Scotland.<sup>114</sup>

The quarterly reports of the Superintendent provided a further perspective on serious crime over the period. In November 1823 Superintendent Robison reported that whilst

petty crime remained at much the same level, there had been no serious robbery over the last quarter. Moreover:

Pocket picking has been chiefly confined to those who in a state of intoxication have been unfortunately decoyed into stairs or brothels by prostitutes where they have met with striffling losses.

In March 1824 when Superintendent Robison reported on the problems of Irish beggars, he also reported that there had been no serious robbery over the previous six months. As regards the problem of prostitution in the city the Police approach was one of clearing the streets from time to time.<sup>115</sup>

In December 1824, Superintendent Robison reported that he did not believe that crime was on the increase, there having been only one robbery since his last report, with the culprit arrested. He also remarked that during the Edinburgh Musical Festival in August 1824 'not a single pocket was picked, while at Newcastle the light fingered tribe was very successful'. Mindful of the threat from criminals outwith the city, in May 1825, Superintendent Robison after referring to the vast numbers of local juvenile offenders, reported a 'great influx of Glasgow thieves' to which his officers had been alerted.<sup>116</sup>

Contemporary newspapers and major periodicals continued to feature some of the more serious crimes coming to notice in the High Court and also an almost daily diatribe of the more unusual cases appearing before the Police Court. It serves no useful purpose in recounting these highlighted cases and it need only be remembered that almost every conceivable 'falsehood, fraud and wilful imposition' and 'atrocious' crime had been perpetrated and detected, long before the introduction of the new Police or system of police. If only to recognise what is regarded as a 'modern' phenomenon, it should be remembered that the most notorious case reported during this period was that of Burke and Hare in 1828. Hare escaped prosecution by turning King's evidence. However after the conviction of William Burke in December that year, for the murder of an old woman, he confessed that she had been the last of fifteen worthies who had been killed and delivered for anatomical dissection by Dr Knox. A crowd of twenty-five thousand witnessed the execution on 28 January 1829 and the well reported circumstances

secured Burke the distinction of being recognised as the first serial killer of the 19<sup>th</sup> century.<sup>117</sup>

Although the capital trials for murder, robbery or housebreaking tended to dominate newspapers, other rare or unusual events were also reported. For example the escape of eight prisoners in August 1825 from Calton Jail made good copyprint. The eight had been confined in one cell and managed to overpower a turnkey. After scaling the external wall and casting off prison jackets, all made off towards Arthur Seat. Whilst six men were traced the same day, the two others were apprehended by the Governor about four weeks later at Leadburn some fifteen miles south of Edinburgh. Again, during September 1825 a mutiny occurred in Calton Jail, when convicts conspired to attack a turnkey with pieces of coal delivered, which provided a large supply of missiles. The intervention of the local 17<sup>th</sup> Foot Regiment was required to restore order.<sup>118</sup>

Problems of disorder continued to occur sporadically. The most notorious of this period were again related to the King's Birthday celebrations. Whilst the previous riot in May 1792 was politically motivated and prompted annual vigilance on the part of the authorities, the riots of 1822 and 1824 were occasions when the Police were unable to contain the excesses of an exuberant crowd with malicious elements. Although in 1822 there was serious riot damage elsewhere in the shire by far the most serious riot was that which occurred during the evening of 23 April 1824 in the city. A great amount of property was damaged and after numerous complaints were received from residents, a Joint Committee of the Town Council and General Commissioners was established to investigate the circumstances.

The Joint Committee Report reveals both the standard approach of the Police in anticipation of the unruly crowd and an insight into the unpredictable actions of the Edinburgh mob. After a meeting between Sheriff Depute Duff and Superintendent Robison, plans for the deployment of police officers were agreed on the basis of intelligence that no planned rioting was expected. About five o'clock on the evening of 23 April 1824, one hundred and fifty policemen were assembled at the Main Police Office,

whilst a serjeant and eleven men were left at each of the five watchhouses. Serjeant Major Stewart and Serjeant Wright were directed 'to patrol the High street without their batons' and to report any extraordinary activity. In addition, a serjeant and six daymen were stationed in the Mound to guard several caravans with wild animals belonging to a travelling circus. Finally a dayman by the name of Hart was tasked to North and South Bridge to be incognito in the 'very heart of the crowd' for intelligence purposes and to feed back any intelligence as to their disposition.

The enquiry reported that by about seven o'clock a large crowd of persons had assembled in North Bridge and soon indulged in celebrations by 'throwing squibs, dead cats and fish as well as other garbage' in the vicinity. Although this was the usual custom, events went out of control before the main body of Police were alerted. After receiving information from dayman Hart, Superintendent Robison formed two Divisions each under a lieutenant. Lieutenant Stuart (later Superintendent) with fifty officers cleared persons from the roadway in North Bridge, whilst Lieutenant Baird with another fifty officers patrolled South Bridge. As this action was undertaken, Serjeant Grant with a reserve of thirty officers stood by at Tron Church. The police action, succeeded in moving the main body of the mob from North Bridge to South Bridge, where riotous behaviour continued until about ten o'clock that evening. After gaining control on the streets, the mob retraced from South Bridge to the Mound, where the serjeant and six daymen were overwhelmed. Despite the assistance of Bailie Blackwood with a party of High Constables at the Mound and the intervention of Lieutenant Stuart with his officers, serious disturbances took place in the Mound and Princes Street areas. The cages of wild animals had been opened, and the crowd had to be baton charged by the Police before order was restored.<sup>119</sup>

The resident Irish community who remained in the city after the completion of the Union Canal, periodically came to notice apart from begging. In July 1823, a large number of Irish caused an affray at the Edinburgh races held at Musselburgh, by assaulting people with sticks. The locals appeared to have retaliated, chasing the Irish out of town, causing some of them to fall in the river Esk and almost drown.<sup>120</sup> Hogmanay continued to be an event requiring large Police deployment. Due to the attacks on the Irish community in

1824, an extraordinary large number of Police and military were deployed for Saturday 1 January 1825. Whilst a mixed party of Royal Dragoons from Piershill Barracks and Royal Midlothian Yeomanry were gathered in the New Town, Superintendent Robison with two hundred ordinary officers three hundred supernumeraries and the High Constables assembled at the Royal Exchange, but no disturbances occurred.<sup>121</sup>

There was street agitation for parliamentary and burgh reform following the formation of the Whig Government under Lord Grey in November 1830, and also further excitement when Russell introduced the Reform Bill in March 1831. However neither Edinburgh, Leith or the remaining Shire experienced the widespread rioting which occurred during 1830 in England. The series of public meetings held in Edinburgh in favour of the extension of the elective franchise were orderly and did not require Police intervention.<sup>122</sup>

## **THE EDINBURGH POLICE AND SYSTEM OF POLICE MODEL**

The ten year duration of the 1822 Act meant that renewal was required in 1832. In July 1831, a committee was appointed to draft the new Police bill taking account of the 1826 amendment Act. By December 1831 the committee presented the draft bill to the General Commissioners who ordered it to be printed for public circulation. The bill did not seek consolidation of the 1822 and 1826 Acts, but rather it extended the duration of these Acts. At the same time however, eighty-one clauses created two additional Wards (31 & 32) for the city, prescribed in more specific terms the manner of elections, authorised the establishment of a Fire Service Department, and introduced further Police enforcement responsibilities in relation to licensed premises, brokers, dealers in rags and bones, stray dogs and other stray animals.<sup>123</sup>

The General Commissioners held special meetings in February and March 1832 to consider the proposed Police bill clause by clause. Whilst some slight amendments were agreed, the main dissent was from seven Residential Commissioners who reminiscent of events in 1822, moved to insert a clause that gave two-thirds of the Commissioners the power to both appoint and dismiss the Superintendent. The motion was however

overruled by a large majority. Residential Commissioner Peter Crooks who represented Ward 16, led the minority opposition to the Police bill.<sup>124</sup>

Being himself a Writer to the Signet, Crooks managed to mobilise opposition to the bill from the Society in May 1832. Despite the claim that the General Commissioners had an 'arbitrary disregard of public opinion' the new Police bill proceeded through Parliament and obtained Royal Assent on 23 June 1832. The only compromise perhaps as a consequence of the local opposition from the Society of Writers to the Signet was that the 1832 Act extended only for a period of two years. The ad hoc approach to new legislation for the Edinburgh Police and system of police thereafter indicates compromise over the struggle for absolute democratic control over the appointment and dismissal of the Superintendent, for the next Police Act in 1834 again extended the former Acts until 1836. Nevertheless the Edinburgh Police and system of police continued through local Acts until the designation of Chief Constable superseded that Superintendent in 1892.<sup>125</sup>

The fact remains however that although fundamentally established in 1805, and radically altered in 1812, the general principles of modern civil Police as an integral part of locally accountable and locally administered services was well developed in Edinburgh by 1822. The bureaucratic organisation with a hierarchical command structure was separate from direct judicial control but subject to political and economic constraints as well as the rule of law. A rudimentary form of recruitment and training existed, and a clear division of labour between uniform patrols and specialist criminal investigation had emerged. By 1832 the Edinburgh Police and system of police was the model eventually extended throughout other cities, burghs and counties in Scotland. The Edinburgh model of locally accountable and locally administered public welfare services also pre-dated and influenced municipal reform in Scotland. Both the Royal Burghs (Scotland) Act and the Parliamentary Burgh (Scotland) Act in 1833 enabled the £10 franchise and the introduction of the range of local services established in Edinburgh to spread throughout Scotland. Indeed, the Edinburgh model may have had some influence on the command structure of the Metropolitan Police Act in 1829 and this is one of the conclusions considered next.



## Chapter Six - COMPARATIVE DEVELOPMENTS ELSEWHERE IN THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND WITH CONCLUSIONS

### COMPARATIVE CONTEXT

The late 18<sup>th</sup> and early 19<sup>th</sup> centuries saw significant reforms of both the Police and system of police in several major cities across Britain and Ireland much of which has already been published. Whilst there has been considerable research into Police developments in England, and to a lesser extent in Ireland, the early history of the Police in Scotland has been largely ignored. This thesis has set out to describe the emergence of the new Police and system of police in Edinburgh in contrast to the rural shire, but cognisance must be taken of similar developments elsewhere in the kingdoms in order to appreciate the enlightened thinking on the subject north of the border, and the unique contribution of Scotland to the institutional development of the Police in the context of criminal justice and democracy.

The emergence of the modern civil Police and system of police in Edinburghshire between 1800 and 1833 can be compared with parallel developments over the same period in London, Dublin and Glasgow. Although much larger in area and populations, London and Dublin had the same cosmopolitan features as Edinburgh, and being metropolis in their own right, reflected the mood of each nation in regard to law and order. Glasgow is also compared because at the beginning of the 19<sup>th</sup> century, its urban size and population was about the same as Edinburgh and because the Glasgow Police Act 1800 in many aspects provided the original template for the Police and system of police introduced in Edinburgh. The limitations of this comparative analysis are acknowledged for the aim is not to expound existing Police histories of these great cities, but rather discern the salient features which were either similar or indeed dissimilar to the Edinburgh model. The restricted analyses to these cities also ignores the fact that many towns in Great Britain had forms of Police and systems of police that have not been subject to research. For example, the *Scots Magazine* referred to a Superintendent Lloyd in Haddingtonshire in 1824 and to Superintendent Lavender (formerly Bow Street) at Manchester in 1825.<sup>1</sup>

## LONDON METROPOLIS

An account on the state of Police and the systems of police operating in London at the beginning of the 19<sup>th</sup> century was produced by Patrick Colquhoun in his *Treatise On The Police Of The Metropolis*. This thesis concludes that Colquhoun must be considered as the leading architect of modern civil Police, because projecting beyond the reformist views of the Fieldings, he was pivotal in refocusing efforts to control crime away from the traditional theories of effective punishments by the judiciary, towards the necessity of a well regulated Police for the prevention and detection of crimes. Thus in the preface of his treatise, Colquhoun states that:

Police in this Country may be considered as a *new Science*; the properties of which consist not in the Judicial Powers which lead to *Punishment*, and which belong to Magistrates alone; but in the PREVENTION and DETECTION OF CRIMES, and in those other Functions which relate to INTERNAL REGULATIONS for the well ordering and comfort of Civil Society. (original syntax)

Whilst Henry and John Fielding can be accredited with the idea of developing a more professional system of Justices, their innovative introductions of the Bow Street Runners and of the preventive Horse and Foot Patrols on the main roads leading into the metropolis, lacked the scale that Colquhoun had in mind.<sup>2</sup>

As in Edinburgh, the need for a nightly watch for the suppression of suspicious strangers was ancient law throughout English towns. The statute of Winchester in 1285 directed every borough to appoint two constables for every hundred, and also laid down the times that town gates should close along with the number of men required for the night watch. The *statuta civitatis* was a separate Act for the City of London which created twenty-four Wards each with six watchmen supervised by an Alderman. Another statute in 1331 repeated the need to arrest and take night walkers and suspicious persons before the Sheriff. Unlike Scotland, by 1360 every county in England had a Justice of the Peace with

some knowledge of the law, assigned to maintain the King's Peace, and law enforcement was strengthened by a statute in 1585 which imposed damages on inhabitants in 'hundreds and counties' who defaulted in the pursuit of offenders when a 'hue and cry' was raised.<sup>3</sup>

During the 18<sup>th</sup> century, London was administered and governed like Edinburgh by an incongruous patchwork of city and county parish jurisdictions only on a much larger scale, each with their own Police and system of police. The City of London which developed north of the Thames was governed exclusively by the Lord Mayor and Common Council of Alderman with twenty-four Wards. A statute of 1737 enabled the Common Council to appoint sufficient number of 'bedels' and nightwatchmen for each Ward and to raise sums of money by rates on respective Ward properties for that purpose. The 'bedel' or beadle was a parish appointee who had a superintending role over nightwatchmen. He kept watchhouse books and provided an account of the nightly watch to the parish constable who was elected separately. Although the 1737 statute prescribed the hours of duty for the nightwatchmen over different seasons of the year, it was silent on wages to be paid and indeed the maximum rate assessment which could be applied. The Aldermen of each Ward had authority to make orders and regulations as they thought proper, but the statute did not prescribe specific offences. The Court of Aldermen appointed a City Marshall, under marshal and six marshallmen to co-ordinate and oversee a small force of day constables and night patrol men. Moreover the Lord Mayor and existing Court of Aldermen were Justices invested with jurisdiction to determine all reported offences.<sup>4</sup>

Whilst Edinburgh had a local government structure similar to the City of London, by the mid 18<sup>th</sup> century the sprawling population of the London metropolis connected the City of London eastward with the City of Westminster and several adjoining parishes in the county of Middlesex. The remaining metropolis was governed by a multitude of 'vestry' administrations which developed over time. Commencing with a statute of 1735 for the parishes of St James and St George, directors of the parish watch were created along with the beadle to oversee nightwatchmen. This nightwatchman scheme was extended to other parishes in the City of Westminster by statutes of 1736, 1737, 1763 and 1765.

Although these statutes were highly localised and diffused, the first efforts to establish a co-ordinated Police originated from the initiatives of Thomas de Veil in 1729, and later those of Henry and John Fielding. Although they are credited with establishing and continuing a permanent non corrupt Magistrates post at Bow Street from 1738, their Police reform was very limited. The few plainclothes 'thief takers and runners' appointed in 1750 by Henry Fielding had increased to only six officers by 1780. A more permanent Bow Street Foot Patrol was established in 1782 and by 1797 they totalled sixty-eight paid constables who were armed and tasked to patrol the outlying highways of the metropolis. The aborted London and Westminster Police bill of 1785 is considered later under the provisions for Dublin metropolis.<sup>5</sup>

In addition to the Bow Street Runners and Foot Patrol, a 1756 statute enabled the Dean of the Collegiate Church of Saint Peter or the High Steward of the City of Westminster to appoint eighty constables for the nine parishes in Westminster. No rates were levied, but instead a Leet Jury was summonsed to appoint the nominated number of persons from each parish who was obliged to take office for at least one year but no more than three years. Moreover another statute of 1774 continued the earlier parish statutes from 1735 and extended the system of paid nightwatchmen with beadles throughout the City of Westminster and to the several parishes adjoining which were in the county of Middlesex albeit no franchise was prescribed. A fixed number of trustees were appointed annually by the inhabitants in each parish. They had the authority to appoint watchmen, watchhouses and watchboxes in the numbers laid down in the statute. Watchmen were paid not less than 1/3d per night and their hours of duty and fixed patrols and beats were also prescribed. They supplied their own lantern but were supplied with a staff and rattle at the expense of each parish. Importantly a rate assessment not exceeding 6d in the pound (2.5%) of the yearly value of both domestic and commercial properties could be levied.<sup>6</sup>

Whilst the 1737, 1756 and 1774 statutes standardised the system of constables and nightwatchmen with beadles throughout the City of London and the City of Westminster and adjoining parishes, and prescribed specific roles and responsibilities for them, they did not create all the public welfare regulations which had to be enforced. Each Ward and

parish in the metropolis was in effect a separate municipality but linked by a number of statutes which over a period of time had established a network of commissioners as trustees with powers to assess inhabitants for the purposes of paving, lighting, cleansing and removing nuisances. For example although the 1737 statute for the City of London also established a system of paving, lighting and cleansing, it was not consolidated until the statute 11 Geo III (1771) c29. Another statute 2 Geo III (1761) c21 introduced similar regulations for paving, cleansing and lighting the City of Westminster and six adjoining parishes in the county of Middlesex. Elsewhere in the Borough of Southwark south of the Thames, statutes 28 Geo II (1755) c9 and 6 Geo III (1766) c24 established regulations on markets, hackney coach stands, marking streets and numbering houses as well as paving, cleansing and lighting. The statute 9 Anne (1711) c23 had established regulations on hackney coaches and chairs throughout the metropolis, and a succession of statutes followed until 33 Geo III (1793) c75 licensed one thousand coaches and four hundred chairs for use in the metropolis. According to Colquhoun, the annual expense to the inhabitants of the metropolis for all municipal regulations, including the poor-rate amounted to 25% of the gross rental of the metropolis.<sup>7</sup>

The final 18<sup>th</sup> century landmark for the Police in London metropolis was the Act of 32 Geo III (1792) c53. Three Justices of the Peace along with six constables were appointed to each of the seven public offices established in respective parishes in the counties of Middlesex and Surrey lying near the metropolis. These seven public offices later referred to as Police Offices were in addition to the existing Bow Street Office, and although the statute was time limited, it was repeatedly renewed until 1839. Whilst the stipendiary JP's received a salary of £400 per annum, the constable received a sum not exceeding 12/- per week and associated expenses 'for preserving the Peace and preventing Robberies and other Felonies, and apprehend Offenders against the Peace', as well as executing the orders of Justices. A Receiver was appointed to account for fines and expenses incurred, which including salaries that were not to exceed £2000 in total for each public office. Whilst the Receiver's salary was £5 per centum of all fines recovered, importantly any short fall in fines to meet expenditure was recoverable from the consolidated fund of central Government.<sup>8</sup>

The model of the 1792 Act was used again with the establishment of the River Thames public office at Wapping in 1800. Another three Justices, each with a £400 annual salary were appointed along with a Receiver and a permanent force of forty-one constables and Thames Police surveyors. Although the ship constables could increase significantly when large numbers of West Indian vessels were on the river, the role of the surveyors (not exceeding thirty) was like the beadle and involved directing and inspecting the constables within the limits of the Act. The annual expense of the Act met by central Government was restricted to £8,000.<sup>9</sup>

According to Colquhoun these stipendiary Justices were established in 1792 as a consequence of pressure felt by the public, from the want of regular and properly constituted tribunals for the distribution of justice. However the limit on expenditure and in particular an adequate fund to defray the expenses of detecting criminals, mitigated against the prevention and suppression of crimes. Apart from the City of London where seven hundred and sixty-five watchmen and thirty-eight patrols were deployed over twenty-four wards, Colquhoun could only estimate that a total of 2,044 beadies, watchmen and patrols were employed by the great number of trusts in every part of the metropolis. After discounting the paid officers in the City of London, the sixty-eight patrolmen at Bow Street, the forty-two constables at the seven public offices and the forty-one officers with the Thames Police, Colquhoun estimated that no more than one hundred and eighty-nine individuals were stipendiary officers, particularly pledged to devote their whole time to the service of the public.<sup>10</sup>

By the beginning of the 19<sup>th</sup> century therefore, the Police and the system of police in London metropolis was undoubtedly more intricate and extensive than the comparable structures in Edinburgh. The judicial enforcement of criminal justice at local level appears to have been more effectual in London especially after the appointment of stipendiary Justices in 1792. London did not have any quasi-military body equivalent to the City Guard, but scale aside the civil Police and system of police in both jurisdictions at the beginning of the 19<sup>th</sup> century were more similar in structure than dissimilar. Edinburgh had

a Moderator Constable who linked the Bailies with the traditional part time and unpaid City Constables, and had a modest system of full time and paid nightwatchmen who guarded and patrolled the suburbs of the city. So in most of London also, there was no great hierarchical command structure separating the constables and watchmen from direct judicial control and direction. The City Marshall, marshallmen and the beadles were the nearest hierarchical command structure but in effect the City Marshall system was equivalent to the lieutenants in the City Guard and the beadle was similar to the Moderator Constable in Edinburgh. Elsewhere, the superintending role of beadles in the City of Westminster and adjoining parishes or even the supervisory surveyors in the Thames Police did not separate the Police from direct control by Justices.

Patrick Colquhoun in his *Treatise* proposed inter alia:

- a Superintending Board of Police Commissioners under the immediate control of the Home Secretary for the whole metropolis instead of seventy different trusts;
- the assignment of a competent number of local constables to each parish, in proportion to the number of inhabited houses, to be chosen by the whole number of qualified inhabitants paying parish rates;
- the appointment of a public prosecutor for the Crown to remedy abuses in the trial of offenders; and
- the consolidation of all municipal regulations (i.e. a system of police) for enforcement by a civil Police, for the comfort, accommodation and convenience of inhabitants.

The new Police were to be more proactive in surveillance and regulation of licensed activity and have central publications like the *Police Gazette*. In this respect Colquhoun was not ashamed of borrowing ideas from other nations especially France under the old regime. Thus the supervision of brokers, hawkers and pedlars, paupers, prostitutes and aliens were legitimate Police duties, whilst the licensing of coaches, carts, chairs and public houses were a legitimate source of revenue to fund the new Police. Whilst the select Committee of the House of Commons on Finance in 1798 probably sympathised with Colquhoun's assertions and recommended some initiatives like the distribution of small rewards to constables and other for meritorious services from public resources, and

the creation of two additional Public Police Offices in the City of London each with three Justices to rationalise the judicial system over the metropolis, the fact is that his views were not ready to be received by the London public or the legislators.<sup>11</sup>

The Police and system of police in place in London at the beginning of the 19<sup>th</sup> century were not reformed in the manner proposed by Colquhoun in his *Treatise* and were destined to continue unreformed for a considerable period of time. Only the Horse Police reconstituted in 1805 at Bow Street Police Office and financed by Government had any semblance of a hierarchical command structure. The forty horsemen who wore a distinctive uniform and carried arms, were under the direct charge of two Inspectors. Fundamentally however, the arrangement of the 1792 Act with constables working from Police Offices under the direction of Justices throughout the metropolis was continued by renewed legislation in 1796, 1802, 1807, 1810 and 1813. In 1807 constable wages were increased from 16/- to 18/- per week, but in 1813 when the number of constables in each office was increased to twelve, the Home Secretary through the Receiver determined what wages and expenses were reasonable. Importantly the 1813 Act enabled Police officers belonging to the Bow Street Office to act as constables throughout the metropolis area included the counties of Middlesex, Surrey, Essex and Kent, the City of Westminster and liberty of the Tower of London.<sup>12</sup>

Whilst in 1820 the Act for Justices and constables at public offices and the Act for continuing the River Thames Police were due for renewal, the Act of 1 Geo IV (1820) c66 extended the duration of both for one year. The subsequent London Police Act 1821 which followed, consolidated the arrangements of the former statutes and took the opportunity to introduce some new regulations over Police and perceived public mischiefs. Whilst the Thames Police Office became one of eight Police Offices throughout the metropolis in addition to the Bow Street Office, the relationship between Justices and the beadles, surveyors, constables and watchmen remained the same. One Receiver accounted to the Treasury on a quarterly basis. The Justices appointed a 'sufficient number of fit and able men for the whole Eight offices', subject to the approbation of the Home Secretary. An upper age limit of forty years was introduced for appointment as a



watchman, and an allowance for superannuation was discretionary out of watch rates collected. Whereas the London Police Act 1821 with forty-nine sections was unusually comprehensive with new welfare regulations at that period, the whole Act was renewed in fifty sections with one amendment one year later. The only change in the consolidating London Police Act 1822 was that the salaries of the various Justices was raised from £400 to £600 per annum, and the maximum charge on the Treasury for the whole establishment including the Bow Street Horse and Foot Patrol was set at £68,000 per annum. Finally, although this 1822 Act was enacted for a period of seven years, another amending statute in 1825 raised the salaries of the Justices to £800 per annum.<sup>13</sup>

When the Act for improving the Police in and near the Metropolis was obtained in June 1829, its preamble:

Whereas Offences against Property have of late increased in and near the Metropolis, and the local Establishment of Nightly Watch and Nightly Police have been found inadequate to the prevention and detection of Crime, by reason of the frequent Unfitness of the Individuals employed, the Insufficiency of their Number, the limited Sphere of their Authority, and their Want of Connection and Co-operation with each other

read like a criminal indictment on failure to undertake Police reform for a number of years. The Metropolitan Police Act 1829 did not prescribe a new Police hierarchical command structure. It merely comprised a modest forty-four sections to substitute a new and more efficient system of police with a jurisdiction covering the City of Westminster and parishes within the counties of Middlesex, Surrey, Hertford, Essex and Kent which with the exception of the City of London, constituted the existing London metropolis area. Importantly the 1829 Act placed the new system of police under the charge of two new Justices (who were later called Commissioners) but the whole bureaucratic organisation including the role of the Receiver together with the powers and duties of constables and watchmen merely consolidated provisions which had been included in earlier London Police Acts since 1792.

Whilst existing watchhouses, watchboxes and other accoutrements were vested in the new Metropolitan Police District, the only new provisions in the 1829 Act pertained to a standardised watch rate and the power of the new Justices to issue orders and regulations deemed expedient, subject to the approbation of the Home Secretary. Thus the Overseer of the Poor in every parish with the Metropolitan Police District was empowered by warrant of the Justices to levy a watch rate not exceeding 8d in every pound on the full and fair annual value of all property rateable for the relief of the poor. The Metropolitan Police Act 1829 did however de facto break the traditional power relationship of Justices controlling and directing constables. In this instance the two dedicated Justices were titular inasmuch as they did not perform judicial functions and thereafter they were able to fully apply their time and efforts directing the new Police. The Act of 10 Geo IV (1829) c45 which received Royal Assent on the same day, continued the existing stipendiary Justices on salaries of £800 per annum until 1832. Thus the new Police which emerged in September 1829 on the streets of London was determined by the orders and regulations framed de jure by Commissioners Rowan and Mayne, and the key question is who and what influenced their decision to have each Division in the Metropolitan District subject to the direct command and control of a Superintendent, assisted by a hierarchy of Inspectors and serjeants.<sup>14</sup>

## DUBLIN METROPOLIS

An comprehensive account on the state of the Police and system of police in Dublin at the beginning of the 19<sup>th</sup> century has been produced by Stanley Palmer in *Police And Protest In England And Ireland 1780-1850*. Dublin was a large metropolis of a separate nation, but was subjugated by a colonial power. It comes as no surprise therefore to learn that prior to 1786, the Police and system of police in Dublin and other parts of Ireland was similar to that operating in London and England.<sup>15</sup> Palmer correctly challenges the traditional viewpoint that the series of Police reforms in London under the influence of Patrick Colquhoun was the force majeure leading to the modern civil Police and system of police adopted in London 1829. However his assertion that the 'Police were imposed on

Ireland and, after experimentation and appropriate modification, they were grudgingly adopted in England' requires some scrutiny.<sup>16</sup>

As early as 1715, Dublin had municipal governance similar to the City of London. Dublin corporation authorised church wardens to appoint constables and watchmen in each parish which was funded by a rate assessment. The Dublin Police Act 1786 created a Dublin Metropolitan District covering more than 150,000 inhabitants over a two mile radius. The 1786 Act enabled the Lord Lieutenant to appoint three Magistrate Commissioners with administrative and judicial control over a new Police. The Metropolitan District was divided into four Divisions, each with a Chief Constable and ten petty constables. In addition there were four hundred watchmen employed. Although the day constables and night-watchmen had distinctive uniforms, they were armed with muskets and bayonets and thus were a quasi-military type guard. Nevertheless when eight 'inspectors of the watch' were appointed in 1786, the new Force took a hierarchical command structure albeit under centralised judicial control. Increased social administration and control, the hallmark of a modern system of police, was made more effective through co-ordinated regulations and licensing measures over a broad range of transport and market activities.<sup>17</sup>

Whilst the Dublin Police Act 1786 introduced bureaucratic organisation and a command structure more similar than dissimilar to the modern civil Police and system of police, it lacked any element of democratic accountability to the ratepayers despite being more than treble the cost of the old Police. Whilst the 1786 Act levied 1/6d on all houses; an amending 1788 Act partly reduced the levy to 1/- on houses below £5 yearly rental only. However the Police rates only accounted for three-quarters of the income required, the rest came from a city tax on transport and revenues from the licensing fees imposed. With an annual cost in excess of £17,000 per annum compared with £5,000 per annum under the previous arrangement, public dissatisfaction lead to further Police reform in 1795.<sup>18</sup>

After almost a decade of central control, the Dublin Police Act 1795 repealed the 1786 Act and provided for a locally directed and unarmed 'civic guard'. The whole Dublin Police

District was overseen by a Superintendant Magistrate on a £600 salary who was assisted by two Divisional Justices on £300 salaries - one for each Division north and south of the Liffey. Local democratic control was restored only to the extent that the three Magistrates were nominated by the Lord Mayor and aldermen elected by the Common Council, subject to the approval of the Lord Lieutenant. Whereas the Superintendant Magistrate appointed a High Constable for the District, along with a Chief Constable and twenty five petty constables for each Division, the church wardens in each of the twenty parishes appointed two constables and two sub-constables along with a sufficient number of watchmen to total at least five hundred for the city. The constables wore distinctive uniform and importantly no firearms were issued. The 1795 Act also set the Police rate at 1/- in the pound on houses valued at £5 or more.<sup>19</sup>

According to Palmer, the 1795 Act did not constitute a return to the pre-1786 Police. The new Police comprised of fifty constables controlled by Dublin city corporation and some five hundred and seventy six constables and watchmen directed by the parishes. The Police continued to enforce the system of police established in 1786. Lack of effective communication between the parish directors however caused administration problems which resulted in an amendment Act of 1796. This created a standing Committee comprising of the Lord Mayor and one church warden or watch director from each parish which was responsible for co-ordinating the Police and making rules and orders 'to render the watch an effectual guard'.<sup>20</sup>

The locally controlled Police and system of police in Dublin under the 1795 Act was short lived for it proved ineffectual during the Irish rebellion of 1798. With debt of more than £8,000, Dublin Castle moved in May 1799 to retake central control over the Police. The Dublin Police Act 1799 continued the Superintendant Magistrate on a £600 salary, but the city with a population of 180,000 was divided into four Divisions. The Government appointed a Divisional Justice in each Division and the Superintendant Magistrate appointed a High Constable, four Chief Constables, forty-eight petty constables and all of the thirty-two watch constables and four hundred and fifty watchmen.<sup>21</sup>

According to Palmer, the Dublin Police Act 1808 constituted the creation of modern Police and this was accomplished by Sir Arthur Wellesley as a new Irish secretary. The Police District of Dublin Metropolis was increased to a radius extending eight miles from Dublin Castle and now covered 178,000 inhabitants with six instead of four Divisions. The Superintendant Magistrate and four Divisional Justices were replaced by eighteen Divisional Justices, one of whom was declared Chief Magistrate, akin to the Bow Street Magistrate in London. Whilst the Lord Lieutenant appointed twelve Justices, the city corporation elected the other six including the Chief magistrate. In fact the Police command structure did not change significantly, for an additional two Chief Constables were appointed for the two new Divisions, along with eighteen Office Constables. Three Office Constables were placed at the six Divisional 'Public Offices' established. The number of watch constables and watchmen remained the same and the existing system of police was continued under the 1808 Act.<sup>22</sup>

The development of the Police and system of police in Dublin in terms of a co-ordinated and centralised control over a command structure by far preceded the similar developments in London after 1829. However only the 1795 Act for Dublin contained some of the salient features of our modern civil Police - that of an unarmed force, bureaucratically organised with a hierarchical command structure subject to local democratic control. In this case the local control was not democratically elected, but by representation of parish watch directors. Nevertheless this local accountability was subject to direct judicial control because the Superintendant Magistrate could potentially direct the Force and exercised judicial functions. Thus the 1795 Act for Dublin was similar to the 1805 Act for Edinburgh in respect of the role of the Superintendant, but Edinburgh had more transparent democratic control through the election of local Residential Commissioners.

Whilst the 1786 Act for Dublin created for the first time a bureaucratic organisation with a hierarchical command structure, the Police were armed and lacked local democratic accountability. A modern system of police was developed but ratepayers had no say or influence on the extent of the measures exercising social administration and control. The

Rebellion ended the prospect of developing the more democratic features of the 1795 Act. Instead the 1799 Act for Dublin continued the Superintendent Magistrate but removed local democratic control or influence. However, the 1808 Act for Dublin with one hundred and twenty-eight Sections was a substantial piece of legislation which created a bureaucratically organised Police with a basic command structure and prescribed powers and responsibilities, but the judicial structure was similar to the 1792 Act for London. Although the Superintendent Magistrate was removed, the judicial functions reverted to a system of stipendiary Justices working in Public Offices and they continued to have direct control over a de-layered command structure. The duty times of Divisional Justices as these public offices were prescribed in the same manner as the 1792 Act for London, and a Recorder at a salary of £1000 per annum undertook the same duties as the Receiver in London.<sup>23</sup>

## GLASGOW

At the beginning of the 19<sup>th</sup> century, the urban development of Glasgow had been similar to Edinburgh. The city developed initially on the north side of the river Clyde and had its own 'New Town' building during the 1770's and 1780's which centred on George Square. Whilst the population of Glasgow was larger, its rate of urbanisation was more or less the same. Thus between 1801 and 1821, the population of Edinburgh increased from approximately 67,000 to 112,000 (67%) and the population of Glasgow increased from 86,000 to 147,000 (70%). It has already been mentioned that Glasgow had double the number of merchants found in Edinburgh and this was primarily due to foreign trade particularly transatlantic which expanded rapidly after the American War of Independence. Having a port on the west coast was advantageous for trade with the Americas and West Indies, but it was also convenient for the immigrant Irish. Consequently the class composition and division differed significantly from Edinburgh.<sup>24</sup>

Glasgow Town Council had a voluntary night corps and a Society of Constables who functioned according to the requirements of the APS in 1661. The voluntary night corps comprised thirty householders drawn regularly from the list of male inhabitants between

the ages of eighteen and sixty years who occupied property at rental value of £2 or upwards. The corps was under the charge of a Captain employed by the city. A private 1778 Act established a full-time Inspector of Police at a salary of £150 per annum along with eight constables paid 1/6d per day. These officers wore a red uniform with a numbered badge inscribed 'Police'. This small Force was short lived because there were no powers to levy rates, and the inhabitants were reluctant to bear the costs. Patrick Colquhoun was Lord Provost of Glasgow in 1782 - 83 and no doubt would be a member of the Town Council prior to holding that position, but his involvement in the 1778 Act (if any) remains uncharted.<sup>25</sup>

Following a petition from inhabitants, the Town Council obtained the first Glasgow Police Act in 1800. This private Act with one hundred and four sections was a major piece of legislation which extended the city Royalty, but significantly introduced a new regulated civil Police and system of police paid for by rates on a scale which was hitherto unknown in Scotland. Although recent research on the Glasgow Police suggests that this idea for the 1800 Act probably came from the 1771 Police Act in Edinburgh, it should be noted that this Edinburgh Act applied to the eight Southern Districts only, and not generally to the royalty of the city as referenced. Whilst the 1800 Act did not prescribe a rank structure, the Town Council did subsequently appoint a Master of Police on a salary of £200 per annum who commanded three serjeants, nine day constables and eighty-eight watchman. The day constables wore a blue cut-away coat, vest and top hat. The night watchmen were issued with a greatcoat, stave, rattle and candle lantern and received 11/- weekly during the summer and 12/- weekly during the winter months. However the growth of the Glasgow Police establishment appears to have been initially restricted. By 1815, the Glasgow Police had increased to nineteen officers and ninety-eight watchmen, whilst Edinburgh Police had increased to twenty-one serjeants, eighteen daymen and one hundred and sixty-two night watchmen.<sup>26</sup>

Glasgow was divided into twenty four Wards and the new Police were overseen by the Lord Provost, three Bailies, Dean of Guild and Convenor of the Trades for the Town Council and also one elected Commissioner for each Ward. The property qualification for

Commissioners and also the franchise was set at a £10 rental value. However rate assessments were made on a greater number of inhabitants in a more equitable graduated scheme. Properties valued £4 to under £6 paid 4d; £6 to under £10 paid 6d; £10 to under £15 paid 9d; and £15 and over paid not more than 1/- (5%) in the pound; and the Town Council contributed £800 annually towards the establishment. Although the 1800 Act created regulations on pavement and street safety, cleansing and lighting and licensing of vehicular traffic, the Commissioners had authority to make their own bye-laws. The Master of Police however had no judicial authority or legal role. Offenders were prosecuted by the Procurator Fiscal in the existing Bailies Court. Despite the increased potential for criminal prosecutions, this failed to happen because the Bailie Court was exceptionally busy with civil causes. Nevertheless, the new Glasgow Bridewell which opened in 1798 had one hundred and fifteen apartments compared to sixty-five in Edinburgh Bridewell.<sup>27</sup>

Despite the innovative creation of a new Police, separate from direct judicial control with bureaucratic organisation and hierarchical command structure, the weakness of the 1800 Act lay with the lack of summary prosecution. Although a new tranche of public safety and welfare offences had been created, the Act did not create the additional judicial capacity required to cope with a relatively high number of criminal cases, nor did it attempt to reform the existing judicial processes for speedier criminal justice. Although the Bailie Court was busy with civil cases, it is known that 'criminal cases reached record figures of over a thousand in 1820' which by that date was about one quarter of the numbers prosecuted in Edinburgh. Indeed, Glasgow did not have a resident Sheriff Depute until the 1820's. When the General Commissioners reviewed the workings of the Edinburgh Police in March 1807, the Glasgow Police Act 1800 was examined in depth as an alternative approach, but concluded that 'the delay and trouble of bringing offenders to justice is reckoned the greatest error of the Glasgow Act'.<sup>28</sup>

Despite the shortcomings, the Glasgow Police Act 1800 in many respects provided the template for the system of police contained in the Edinburgh Police Act 1805. The features of elected Commissioners, bureaucratic organisation, rate assessments, the



tranche of public safety and welfare regulations and even the Police in identifiable uniform were adopted by Edinburgh and further developed. Although the hierarchical command structure was also adopted, other aspects of the Glasgow Police were not. For example, the watchmen in Glasgow were located and fixed at watchboxes rather on beat patrol, and were also responsible for supplementing the scavengers in street cleansing and this task which took two hours daily lasted until 1824. The Glasgow Police establishment remained unreformed particularly over the first two decades of the 19<sup>th</sup> century. Whether this restriction in development was due to the financial prudence of the Town Council or to the evangelical influence of Dr Thomas Chalmers, is open to conjecture. Only after Lord Advocate Rae expressed anxiety over the uncoordinated Police arrangements during the 1820 'Radical War' and after Chalmer's unsuccessful experiment on regenerating society through a process of self-help and moral exhortation, was reform undertaken and the establishment strength greatly increased. Eventually the Edinburgh Police and system of police model was adopted in Glasgow. In 1818 the rank of lieutenant was incorporated, in 1819 two additional Residential Commissioners were elected in each Ward, and in 1821 the title Superintendent of Police was adopted in place of Master of Police. In March 1832, Mr F G Denovan, who resigned as Intendent of Police in Leith, was appointed as Superintendent of Police in Glasgow. The Glasgow Police Act 1800 was amended and continued in 1807, further continued in 1819, before being further amended in 1830.<sup>29</sup>

## CONCLUSIONS ON THE EMERGENCE AND INFLUENCE OF THE EDINBURGH POLICE AND SYSTEM OF POLICE

The so-called Whig traditional view on the need for the new Police which is deemed to have commenced with the London Metropolitan Police Act in 1829, is epitomised by Charles Reith when he declared that:

One outstanding consequence of the economic dislocation which followed the Napoleonic Wars was the menace to the existence of all authority, due to the absence of any effective means of securing observance of laws. *The complete breakdown in London of the old parish-constable system had*

*spread to all parts of the country.....* Crime, riots and crime industry in London were increasing and becoming uncontrollable.<sup>30</sup> (italics added)

This view was essentially shared later by Critchley who stressed the 'sheer inability' of Government to cope with economic and social upheaval and stated that 'the breakdown in law and order marched in step with the progress of the Industrial Revolution'.<sup>31</sup> These views cannot be totally discredited, because many social reformers at the beginning of the 19<sup>th</sup> century linked crime with 'the enlarged state of Society' and the immutable fact that 'immorality, licentiousness and crimes are known to advance in proportion to the excessive accumulation of wealth'.<sup>32</sup>

This over generalised Whig view of the economic and social problems of the period appears a rather inadequate description of urban life in Edinburgh or indeed rural life in Edinburghshire. If the breakdown in law and order marched in step with the Industrial Revolution, then it was a long time in the making. There is a linkage between crime and socio-economic conditions, but it can more adequately be explained by the process of urbanisation. Moreover within this process of urbanisation, there is a need to discern those individual imperatives requiring enforcement of the law from those collective imperatives for maintaining order. When Edinburgh Town Council took steps in 1802 to reform the system of police, there was locally articulated concern about the breakdown of law and order. Both local crime and 'atrocious' crimes throughout Britain and Ireland, were well reported as a matter of routine in provincial newspapers. However the mood of 'a very respectable body of inhabitants' led by banker Sir William Forbes, had more to do with a pervasive insecurity brought about generally by a demand for more order in civil society and more specifically by the visible increase in transient vagrancy and street begging.<sup>33</sup>

Of course the emergence of vagrants as a new 'dangerous class' is central to the structuralist arguments proffered by Robert Storch and others about the need for the new Police. Urbanisation and industrialisation are seen as the main reasons for the shifting and accentuated pattern of class division and the conflict associated with the rise of capitalism in both town and country areas. Thus according to Storch, the emergence of

the new Police had little to do with the need to prevent and detect crime, but more to do with maintenance of the social order required by the capitalist class. Hence the new Police were given an 'omnibus mandate' of regulating all aspects of working class life.<sup>34</sup> Whilst the emergence of a 'dangerous class' has some validity in Edinburgh, its timing in relation to the need for a new Police clearly preceded any evidence of class conflict. The economic and social divisions in Edinburgh can be traced back to the 1750's and the 1760's, but the consequence of these divisions in terms of transient vagrancy and increased crime took decades to become more transparent, and coincides with the development of new spatial arrangements in the city. Whilst there was a growing separation between rich and poor, overt class conflict appears to be a later 19<sup>th</sup> century phenomenon.

The same structuralist viewpoint has been articulated north of the border by Kit Carson who points out that:

Massive vagrancy was a structurally induced phenomenon arising out of the way in which Scotland's social and economic life was being transformed during the first half of the nineteenth century, and the policing response cannot therefore simply be attributed to local factors.

Carson acknowledges that 'a sociologically informed history of the institution of police' has yet to be produced for Scotland, but then in a top down fashion berates the views of Victor Bailey and others who have pointed to the record of diversity, unevenness and compromise during the 19<sup>th</sup> century history of policing which requires a localised case history approach for explanation.<sup>35</sup>

Emphasis on structural socio-economic change in society is important, but there is a danger of overstating the contribution of class conflict. In reality, the process of urbanisation in itself necessitated 'welfare' regulations in urban centres for the safety and well-being of all inhabitants, before the advent of class conflict or indeed the introduction of the new Police. The process of urbanisation was as much a consequence of agrarian progress as it was of new technological advances in industrial production methods. Massive vagrancy is yet another unjustified overstatement. The numbers of unemployed

and transient poor in early 19<sup>th</sup> century Edinburgh were relatively low and manageable, albeit they caused annoyance and offence to the more affluent inhabitants. The new Police in Edinburgh emerged in an enlightened and relatively affluent society which could afford them. Carson ignores this context when he indulges in over generalisation of the series of private Police Acts in early 19<sup>th</sup> century Scotland without adequate research into their implementation. It is necessary to look further than published statutes, and examine other available evidence to establish peculiar circumstances and local outcomes.

That both Whig and structuralist viewpoints have validity is implicit in the revisionist approach to explaining the need for the new Police taken by Alan Silver and others. The rapid growth of large cities involved the development of greater segregation between classes and poor areas may have generated more crime and disorder as a consequence of anonymity, demoralisation and despair. In his seminal essay on 'the demand for order in civil society', Silver acknowledges that social order itself was threatened by the 'dangerous classes' which necessitated a new Police 'guarding' St James by watching St Giles'. In this sense:

The police penetration of civil society, however, lay not only in its narrow application to crime and violence. In a broader sense, it represented the penetration and continual presence of central political authority throughout daily life.

Thus although Silver focuses on the need for order rather than law enforcement, he may be a closer to reality when he states that 'urban administrators *regarded* the swelling numbers of the poor as unmanageable'. (italics added) If this position is accepted on relative terms, then although Edinburgh only had to cope with hundreds of poor persons (reckoned to be no more than 3% of the city population) this would create difficulties given the lack of infrastructure support.<sup>36</sup>

Care and control of the newly emerging poor was a high priority for Edinburgh Town Council at the beginning of the 19<sup>th</sup> century. When Patrick Colquhoun was made a Freeman of the City of Edinburgh in 1800 it was for his remedy for dealing with the poor. The Town Council did not establish a Pauper Police as suggested by Colquhoun's in his

*Treatise*, but did obtain a private Act in 1800 to raise £10,000 for relief of the poor. At the same time, the Edinburgh Society for Bettering the Condition and Increasing the Comfort of the Poor, established a School of Industry as well as meal centres. Despite the benevolent approach, the Society were determined to have 'some general and efficient mode of abolishing the practice of Vagrant Begging' and hence they exerted influence on the Town Council to obtain some provisions for this purpose in a new Police bill.<sup>37</sup>

When Edinburgh Town Council made public the terms of the scheme of the new Police bill in March 1803, its system of police structure and content were remarkably similar to the Glasgow Police Act of 1800. The proposed bill was generally well received and although innovative was not unduly radical in terms of consolidating existing regulations in place. After all the 1771 Act for the Eight Southern Districts in Edinburgh had already introduced the concept of a rate assessment on properties and the election of Commissioners by a franchise to supervise the 'peace officers' and nightwatchmen. The Glasgow Police Act in 1800 further developed the concept of elected Residential Commissioners in each Ward and this was adopted in the Edinburgh Police bill. What was ambitious in the Edinburgh bill however, was the extent of the proposed jurisdiction extending to the town of (North and South) Leith and Portobello some three miles distant from the city.<sup>38</sup>

The involvement and influence of Patrick Colquhoun thereafter with the Edinburgh Police bill is not altogether clear. The proposed bill made no progress for more than a year, due to the determination of the Leith Police Commissioners to have their own Police Act. The fact that Colquhoun attended a meeting chaired by Sir William Forbes in May 1804 in Edinburgh to further discuss the bill, is only alluded to in a minute reported back to the Leith Police Commissioners. The minute however concluded that the contribution made by Colquhoun prompted considerable alteration to the bill, which would result in added delay. As a consequence the final Edinburgh Police Act of 1805 which constituted:

- a Board of General Police Commissioners with bureaucratically organised support to oversee the Police and system of police which covered cleansing and lighting as well as watching responsibilities;

- a Superintendant of Police who commanded a hierarchy of full time paid Police and was also Judge in a new Police Court; and
- Inspectors of Police who had supervisory functions but who prosecuted the consolidated public welfare offences along with petty crimes in a new summary procedure before the Police Court;

had the ideas of Colquhoun writ large throughout. However by conjoining the Head of Police and Judge of Police functions in the office of Superintendant, the 1805 Act went further than what was proposed in his *Treatise*.<sup>39</sup>

Edinburgh Town Council took steps to obtain the new Police and system of police contained in the 1805 Act for a number of reasons which fall under a revisionist label. Despite the pre-eminence of wealth and enlightenment, the city by the beginning of the 19<sup>th</sup> century was experiencing the negative aspects of rapid urbanisation. Georgian neo-classical and enlightened thinking during the latter part of the 18<sup>th</sup> century, not only permeated building but also education, and consequently developed the notion in part articulated by Michel Foucault, of attaining an orderly 'civil society' through comprehensive economic and social regulation. The need for civil order was almost pedantic, for a sincere *Scots Magazine* article in 1804 pointed to the need to prevent the 'inconvenience arising from the zig-zag mode of walking in the streets' in the proposed Police bill.<sup>40</sup>

The advance of civil society during the last decade of the 18<sup>th</sup> century in Edinburgh was directly challenged and threatened by its own peculiar mix of Whig and structuralist factors which constituted the 'pervasive insecurity' for the majority. It was within the context of the shifting political, economic and social paradigms and intellectual debate about the nature of society, that the case for new Police emerged. There were concerns about the need for effective law enforcement and how to maintain social order in a changing society, and a recognition that the notion of 'sociability' expounded by Adam Smith and the moralists, was unlikely to protect property and civic needs of a growing number of middle classes. The increase in the numbers of unemployed and transient poor did coincide with a perceived increase in both petty and serious crime, and whilst this local

experience was no different from any other large city in Britain, Edinburgh had both the political will and economic wealth to tackle the problem for 'civic humanist' reasons.

The Edinburgh Police Act in 1805 represented the resolve of the city fathers to tackle the perceived social problems of the period. Patrick Colquhoun was a man of vision imbued with the 'enlightened' thinking of David Hume, Adam Smith, Adam Ferguson and others and his own *Treatise* provided an acceptable logical solution to the social problems which had developed. Although Melville Lee rightly called him 'the architect who designed our modern police', he did so for the wrong reasons. Colquhoun had no direct influence on the creation of the Metropolitan Police model in 1829, as he did on the creation of the Edinburgh Police model in 1805. Following the principle that 'necessity is the mother of invention' first and foremost a new Police was required to more effectively detect criminals and enforce existing regulations. Apart from serious crime prosecuted by the Lord Advocate in the public interest, the responsibility of individuals to prosecute petty crime and offences on the common law basis of 'moiety' lacked certainty and consistency. Private associations for prosecutions which featured south of the border, did not exist in Edinburgh or indeed Scotland. Thus the new form of summary prosecution in Edinburgh represented a logical development in the criminal justice system for Scotland which complemented the existing solemn prosecutions in the public interest.<sup>41</sup>

The origin of a Superintendant as head of the new Police and also Judge in a newly constituted Police Court is more difficult to trace. Although the concept of a Superintendant Magistrate was created in the Dublin Police Act 1795, and rescinded in the reforming 1808 Act, Palmer does not indicate the scope or scale of administrative and operational direction exerted on the Dublin Police. The Dublin model aside, the most obvious influence on the Edinburgh Police Act of 1805 has to be French, in particular the functioning of the Lieutenant of Police in Paris prior to the Revolution. From the 13<sup>th</sup> century Scotland and France enjoyed an extraordinary period of friendship, cultural exchange and Royal inter-marriage and consequently French influence in Scotland has been as strong if not stronger than English. The role of the Lieutenant of Police and the

comprehensive system of police in Paris described by Alan Williams is more similar to the 1805 Edinburgh model than dissimilar albeit on a much greater scale.<sup>42</sup>

Whilst the more effective enforcement of law under a code of summary prosecution was a logical development, and a Police Court was a radical reform, the election of Residential Commissioners in each ward is an undocumented feature of the 1805 Act. Laurence Lustgarten rightly points out that 'there is no necessary connection between democracy and any particular mode of organisation and control of the police' but equally values the role of elected representatives 'to continue popular participation in law enforcement and to create a climate in which the police are seen as a service, not a force'. As indicated in the Introduction, the most important feature of the modern Police is the extent to which they are accountable, primarily to the law and judicial control, and secondly to another network of political, economic and social demands. The locally elected member is a key player in this network which links with the community and thus any reform of Police that does not value this linkage, fundamentally alters the environment of democratic checks and balances within which the Police operate.<sup>43</sup>

The system of elected Residential Commissioners incorporated in the Edinburgh Police Act 1805 and subsequent Acts, not only marks the beginning of the movement towards representative democracy which led to Parliamentary and Municipal reform Acts in 1832 and 1833, but represents through locally elected members the creation of a distinctly accountable Police relatively closer to the community it serves. The elected Commissioners continued after the Municipal reform Act of 1833, but ended when the Edinburgh Municipal Extension Act of 1856 transferred their powers to the elected Town Council. Local democratic accountability was not a legal requirement in the London Metropolitan Police Act 1829 and it has been absent in the traditional tripartite system of Police accountability ever since. Thus following the Edinburgh Police model, Watch Committees and subsequent Police Authorities in Scotland have comprised elected members only, some of whom happened to be Justices of the peace, rather than participation by virtue of JP status as with Watch Committees in England and Wales. For



this reason it is difficult to sustain the claim that the Metropolitan Police model was the template used in the creation of modern civil Police in Britain.

The minute books of Edinburgh Town Council and indeed the General Commissioners of Police are devoid of any reference to the need for representative democratic accountability through elected Residential Commissioners. A franchise and property qualification precedent had already been set in the 1771 Act for the Eight Southern Districts in Edinburgh, and generally adopted in the Glasgow Police Act in 1800, but debate about incorporation of this democratic feature in the Edinburgh Police Acts prior to 1832 is non-existent. The proposition that the election of Residential Commissioners was allowed in exchange for additional rate assessment for a new Police was a compromise resulting from the general political struggle between Tory and Whig interests, but there is no evidence to draw such a conclusion. The most logical explanation is that Edinburgh Town Council faced with a predominance of enlightened merchants and lawyers, tacitly accepted the case for burgh reform, and legislated the compromise of an increased burden in local rates in exchange for an extended franchise. Whilst the political differences between Tory and Whig interests, manifested in 1807 during the General Assembly of the Church of Scotland debates, and in 1817 over burgh reform, it did not appear in connection with the new Police until 1820, and even then it was caused by an attempt to reduce the existing £10 franchise. Although the *Scotsman* supported the Whig case in relation to renewal of the Police Act in 1822, the *Edinburgh Review* took no interest in the local Police issues whatsoever.<sup>44</sup>

The most distinguishing feature of the new Police was the extent to which they engaged in law enforcement for the protection of both individual rights and collective 'welfare' rights. Although there is a dearth of pre-1812 crime statistics, the new Police most certainly became 'A New Engine of Power and Authority'. The scope and scale of prosecutions in the Police Court after 1805 provides an authoritative insight into the prevailing social problems in early 19<sup>th</sup> century Edinburgh. Whilst petty crimes of theft, dishonesty and vagrancy constituted about a quarter of prosecutions, street disorders involving assault, rioting and breach of the peace accounted for about a third of

prosecutions. Thus almost half of all summary prosecutions concerned the enforcement of 'welfare' regulations like obstruction, traffic and cleansing offences. Several commentators have emphasised the variety of tasks undertaken by the new Police beyond crime detection and order maintenance, and recognised that wider Police contact with the public develops both legitimacy and consent.<sup>45</sup>

The Edinburgh Police Act 1805 made the substantial transformation to the new Police and system of police, but it had traces of the past which provided continuity. The historical City Guard was continued, not only to enable a period to extinguish their debt, but because withdrawal of an armed force was premature in a society bristling with militia. Even the traditional unpaid City Constables were allowed to continue and whilst their effectiveness prior to 1805 cannot be assessed, their role thereafter became increasingly ceremonial. Although the Superintendant headed the Police, he was also the Judge with a new summary jurisdiction and thus like the Superintendant Magistrate in Dublin, exercised direct judicial control over the new Police. Even the new summary form of jurisdiction continued the common law principle of 'moiety' and this enabled the new Police to individually benefit from their exertions, akin to a system of performance related pay. By December 1806 however, the General Committee of Commissioners acknowledged the potential abuse and ordered that half the fines received would be paid into a fund held by the Sheriff Depute, who would reward officers according to extraordinary diligence and service.<sup>46</sup>

Whilst Edinburgh Town Council had the political will to create the new Police and system of police, obtaining the finance in the city was not without difficulties. In March 1807, whilst the General Committee deliberated making savings, an application to Government for financial assistance was refused. Despite the financial difficulties over funding the new Police, the question of their repeal was not considered an option in the debates. By January 1809, the General Committee had acknowledged the defects in the 1805 Act, including the need for the jurisdiction of the Police Court to revert to the ordinary Magistrates, but only lack of finance prevented immediate reform. However, the renewed

crisis on law and order following the 1811 'hogmanay riots' was sufficient to renew political will to introduce the Edinburgh Police Act of 1812. This acute crisis however masked a more pervasive insecurity in Edinburgh for alongside the Town Council plea in January 1812 for a supplementary 'Night Patrole' appeared an advertisement for the first occasion selling new 'Alarm Machines for the protection of Property against Housebreaking'.<sup>47</sup>

The 1812 Act concluded the transformation to a modern civil Police in Edinburgh and fully integrated system of police under one set of General Commissioners. The 1812 Act placed the Superintendant in charge of the hierarchical command structure and invested him with operational responsibility without direct control and direction from judicial authority. Whilst traditionally the Sheriff Depute had the responsibility to lead investigations into major crimes, after 1812 this responsibility *de facto* shifted to the Superintendant and later the lieutenants under his command. Even the use of informants passed to the new Police with the approbation of the Sheriff Depute. The meeting between Sheriff Depute Rae and the informant McQueen from Essex, which was disclosed during a High Court Trial in 1809 for shopbreaking at Picardy Place, Edinburgh is one of the rare occasions of the period when such practice was evidenced beyond intelligence. That such a means of intelligence gathering was routine, is also alluded to in the valedictory speech of Superintendant Tait in 1812 when he warned that 'the want of a fund to procure information' was one of the weaknesses of the 1805 Act. When Superintendant Brown recruited the informant Rankine in 1814 on a wage of 10/6d per week, he had to create a fictitious watchman on the establishment account to circumvent the continued weakness under 1812 Act. Subsequent discovery of the fraud abuses by Murray, the Police Clerk who continued to create fictitious watchmen led to the first major scandal for the new Police. Nevertheless, the investigation into these frauds by the General Commissioners in 1820 agreed that there was a need for a 'small fund for the purpose of rewarding secret services' and this was accommodated in the 1822 Act.

Despite the difficulties with internal and external accountability of the Superintendant to the General Commissioners and the Police Court, the prevention of crime continued to

underpin the aim of the Police as it had since 1805, but *prevention of crime* was thought best achievable through the detection and prosecution of offenders. There was some pious hope after the opening of the new Police Court in 1805, that the relatively high volume of prosecutions would have a salutary preventive effect and raise civic consciousness to a level that would improve the quality of life in the city. Such hope may have been justified in relation to the tranche of welfare offences created but could not counteract the nature of man in the new politically, economically and socially divided 19<sup>th</sup> century society. Curiously however, the notion of preventing crime through detection and prosecution persisted for some time, because the re-issue of distinctive civil uniforms to the Edinburgh Police which followed much later in 1831, had more to do with the need for public recognition of the Police, rather than increased their effectiveness to *prevent* crime.

Despite the existing debt and financial crisis, the 1812 Act more or less doubled the 1805 Act establishment to a ratio of approximately one Police officer to every five hundred and fifty inhabitants. However in November 1813, another local debate ensued on the efficacy of the Edinburgh Police as compared with the continuing Glasgow Police Act of 1800. Although the Edinburgh system of police model cost £22,000 per annum, the establishment of six watchhouses, two hundred officers, one hundred scavengers and 4,160 lamps was generally accepted and preferred to the Glasgow system of police which cost £8,500 per annum, with one watchhouse in half the territorial jurisdiction, and with seventy-eight officers, sixteen scavengers and 1,270 lamps. The Edinburgh General Commissioners maintained their resolve to sustain a strong Police and system of police during the period of economic austerity which followed and sought continuous development of public safety through that system of police.<sup>48</sup>

Financing the 1812 Police was still a local burden, and yet another plea to Government in November 1818 for assistance on the same basis as the London and Dublin Police Acts was refused. Despite the cost of the new Police and their burden on ratepayers, the question of reverting to the traditional system of City Constables and the City Guard was never raised. Debate focused on how many could be afforded during a period of economic austerity, and thus the value and benefits of the new Police were taken for

granted. This case of functional necessity despite the costs is supported in the overall context of local municipal spending about that period. Thus in 1822, when the Police Commissioners were raising through rates and spending circa £25,000, the Town Council were raising through rates and spending circa £43,000 at a time when the city debt stood at £144,500. In this comparative context however, the local rates burden in 1822 for all services including the new Police in Edinburgh amounted to 25½% levied on four-fifths of assessed actual rents, which was about the same as that imposed about the beginning of the 19<sup>th</sup> century on the London metropolis, which did not have the new Police.<sup>49</sup>

The accountability of the Superintendent to the General Commissioners of Police beyond operational autonomy was the main theme following the introduction of the 1812 Act. Although the issue of accountability was linked to the growing political divisions between a Tory Town Council and elected General Commissioners with Whig tendencies, by 1822 both factions had no doubt the Superintendent was subject to the contemporary network of political and economic constraints as well as social demands. Other subsidiary but important themes were also addressed over the decade, including the general conduct of Police officers and their accountability to the Superintendent, and also their deployment and training. The Engine of Power and Authority was more or less doubled and therefore it comes as no surprise that the number of cases prosecuted locally in the public interest increased on a pro rata basis and by 1817 it was found necessary to introduce a new Police power to grant bail prior to attendance at Court.

The Edinburgh Police Act of 1822 apart from minor changes to the appointment of General Commissioners, more or less continued the 1812 Act. After 1822 however the Police became more professional with increased emphasis on training, prisoner care and specialist officers on criminal investigation. Despite these quality of service issues, the fact remains that the original Glasgow Police template of 1800 which was significantly modified by the Edinburgh Police Acts of 1805 and 1812, established the new Police and system of police model which was eventually extended throughout Scotland and which is more closely assimilated with modern civil Police in provincial Britain than the initial Metropolitan Police model.

However, the new Police and system of police model developed unevenly throughout Scotland over time, with appropriate private Acts being obtained for Leith (1806), Paisley (1806), Gorbals (1808), Greenock (1810), Dumfries (1811), Perth (1811), Calton (1819), Dundee (1824) and Anderston (1826). The piecemeal development of the new Police during the early decades of the 19<sup>th</sup> century in Scotland, supports the contention of Clive Emsley quoted in the Introduction 'that changing ideas and social structures played a crucial role in the development of police forces; but so too did pragmatism, compromise, self-interest and the historical traditions of individual States.' Whilst the new Police and system of police model was first incorporated in the public Act 3 & 4 Will (1833) c46, first reference to the functional role of the Superintendent was not made until the public Act 13 & 14 Vic (1850) c33. However the peculiar role of the Police Superintendent in the summary prosecution of crimes and offences ended sometime prior to 55 & 56 Vic (1892) c55 - the landmark Burgh Police (Scotland) Act; and whilst the Police in England and Wales continued with this role, in Scotland the prosecuting function reverted to Procurators Fiscal. Whilst this thesis has focussed on the emergence and development of the new Police in Edinburgh prior to 1833, the history of the new Police after 1833 in Scotland remains substantially uncharted.

In the wider comparative context however, it is reasonable to assume that Robert Peel would be familiar with the Edinburgh Police model after visiting the city during the Royal visit of George IV in August 1822. Many commentators under the revisionist label, emphasise the contribution of the Irish Police in the formation of the Metropolitan Police under the 1829 Act. However, the 1829 Act only continued the existing bureaucratic organisation of the London Police, it being silent on the form of the hierarchical command structure as well as the expected roles and responsibilities of the new Police. The fact is that the Police who emerged on the streets of London in September 1829 did so under an autonomous command structure which was more similar than dissimilar to the Edinburgh Police model. The similarities are such that the inference to be drawn is, that Edinburgh as the metropolis of Scotland had as much influence on the development of modern civil Police and system of police in Britain as Dublin has had ascribed hitherto.<sup>50</sup>

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### Introduction

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- 3 Alan Williams, The Police Of Paris 1718-1789 (London, 1979) preface p15.
- 4 See Ann E Whetstone, Scottish County Government In The Eighteen And Nineteenth Centuries (Edinburgh, 1981).
- 5 In Scotland this culminated in -  
2 & 3 Will IV c 65 - The Representation of the People(Scotland) Act, 1832;  
3 & 4 Will IV c 76 - The Royal Burghs (Scotland) Act, 1833; and  
3 & 4 Will IV c 77 - The Parliamentary Burghs(Scotland) Act, 1833.
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Earls of Lauderdale, Leven, Galloway and Dalhousie as Lords receiving £800 each;  
Sir Robert Menzie, Alex Fraser and Thomas Dundas as Gentlemen receiving £400 each;  
James McDougal (Cashier - £100); Hon. Robert Sandilands (Solicitor - £100); and Sir Archibald Hope (Secretary - £300).

## Chapter One - STATE OF EDINBURGH AND EDINBURGHSIRE

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- 7 Cockburn (1856) Memorials, p196.  
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- 8 William Law Matheson, Church And Reform In Scotland, A History From 1797 to 1843 (Glasgow, 1916) Chapter IV Progress of the Whigs 1820 - 27 and p166 & p176 re influence of the Scotsman and Edinburgh Review.  
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- 9 Kenneth J Logue, Popular Disturbances In Scotland 1780 - 1815 (Edinburgh 1979) pp11-12 re Friends of the People and pp109-112 re United Scotsmen.  
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- 24 See Smout (1985) History pp213-222 on Change and Division in the Kirk; Matheson (1916) Church And Reform, Chapter 1 on the Evangelistic Revival and Chapter 2 on The Decline of Moderatism; and Phillipson & Micheson (1970), Scotland In The Age Of Improvement, Chapter 9 on Protest to reaction: The Moderate Regime in the Church of Scotland, 1752 - 1805 by Ian Clark. Whilst the Moderate clergy during the second half of the 18<sup>th</sup> century were reacting against strict presbyterianism, favouring moderation in religion, the evangelicals led by Dr Chalmers during the first half of the 19<sup>th</sup> century were reacting against the moderate position, to create a more unsecular society.
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- 27 Midlothian, East and West Lothian were first legally constituted County Council areas under the Local Government (Scotland) Act, 1889 and the boundaries of Parishes therein were subject to change by the Boundary Commissioners appointed under the same Act. Along with the City of Edinburgh, the areas each acquired District Council status under the Local Government (Scotland) Act 1973.
- 28 Devine & Mitchison (1988) People And Society, p4.
- 29 See SAS Volumes pertaining to Edinburghshire (1791 to 1799) and NSA Volume 1 - Edinburghshire (1845).
- 30 The LAND was a tenement building on the Old Town of several stories in height containing separated dwellings accessed by a common stair. The New Town according to James Craig's plan adopted in 1766 was built over a period of approximately 40 years. By 1800, Princes' Street, George Street and Queens Street extending westwards from St Andrews Square were complete. Other building completions included Charlotte Square (1792-1810), Heriot Row (1803), Abercromby Place (1804), Northumberland Street (1810), Great King Street (1817), Royal Circus (1823) and Manor Place at the western extremity of the City (1829). - See AJ Youngson (1968) Classical Edinburgh.
- 31 First letter to Sir John Sinclair in the SAS outlining the physical changes in Edinburgh between 1763 and 1792 by William Creech (1792); William Creech (1745-1815) was a well known bookseller and publisher. As a member of the Mirror Club, he promulgated conservative social values adopting the pseudonym THEOPHRATUS. He helped to form the Edinburgh Chamber of Commerce in 1786 and was Lord Provost 1811 - 1813. See Dwyer & Sher (1993) Sociability And Society, p9 and pp119-146 on Service to the Public: William Creech and Sentiment For Sale by Barbara Benedict. See also Scots Magazine (1818) p437 which narrated a tour through Scotland in 1817 by Charles Dupin, corresponding members of the French Institute, who opened 'Edinburgh is the Athens of the North, and the Scottish people combine the urbanity of the Greeks with the hospitality of the Arabs'.

- 32 Burghs of Barony were founded as early as Royal Burghs like Edinburgh, with similar commercial privileges and were erected by a subject-superior under licence from the King. A Regality was a Barony with fuller administrative and jurisdictional rights, the precise rights depending on the charter of erection - McLarty & Paton (editors), A Source Book & History Of Administrative Law In Scotland (Edinburgh, 1956), Chapter 1 by George Pryde.
- 33 NSA Volume 1 - Edinburghshire (1845) pp647-649. The principal liberties, entitlement - to levy custom on certain imported and exported goods to make laws for government of the City, and for the Lord Provost and Bailies to sit as Sheriffs are contained in the so-called 'Golden Charter' granted by James III in 1482 - see Arnot (1816) History p382 and p447. Private Acts of Parliament to acquire land for extension to the city were obtained in 1767, 1785 1786, 1809 and 1814.
- 34 11 Geo III (1771) c36. Originally small communities to the south of the City limits, Easter Portsburgh (i.e. Potterrow and Bristo) and Wester Portsburgh (West Port and Lauriston) were erected a burgh of barony by Royal Charter in 1649 with the City having the right of appointing bailies and other officers.
- 35 As to the long-leet and short-leet procedures adopted, see Arnot (1816) History, pp391-400. Details of the 3-person short-leets presented and persons chosen each year are contained in the series of Edinburgh Town Council (ETC) Records, Volumes 135 to 215 covering the period 1800 to 1833.
- 36 The formalities of assuming office included subscribing the oath de fidel (or allegiance) according to an Act of Council dated 10 September 1718. The ritual at subsequent Council meetings included recital of Acts of Council pertaining to procedures: e.g. 3 August 1743 - all motions to be in writing; 5 October 1757 - Council to meet every Wednesday at 12 noon to dispatch business unless informed otherwise; and 5 October 1791 - manner of preserving petitions etc. - see ETC Records, Vol 147 p124 to p128 re these typical procedures at meetings in September and October 1806. Details of Edinburgh Town Council and the permanent officials for the city are summarised in the annuals editions of The General Almanack Of Scotland And The Edinburgh Almanack.
- 37 Margurite Wood, The Lord Provosts Of Edinburgh 1296-1932 (Edinburgh, 1932). The salary of the Lord Provost set at £500 per annum in January 1771, was raised to £800 per annum by an Act of Council dated 29 May 1805 - see ETC Records, Vol 143 p22.
- 38 Arnot (1816) History, p383 & p384 and entries in The Edinburgh Almanack *ibid.* published annually. Apart from these standing committees, the Bailies were involved jointly on various Committees in drafting new Regulations and Bills to the House of Commons, and on ad hoc Committees for special purposes - see for example ETC Records Vol. 147 p138 for Committees on the Chamberlain & Tradesman; on Public Works; on the College & High School; on the Poor; on the Causeys (i.e. footways); on Quarries; on Shore Dues; on Wet Docks; and on Arrears.
- 39 The Regulations & Table of Fares for Hackney Coaches & Chairs were reviewed at regular periods and precise details were published - see ETC Records Vol. 137 pp148-154 for Regs dated 4 August 1802; Vol. 140 p357-370 for Regs dated 29 August 1804.
- 40 Regulations & Fares for Edinburgh Porters (who delivered coals) dated 2 July 1806 & 27 Feb. 1811 can be found in the ETC Records Vol. 146 p244 & Vol. 158 p24 and those for Leith Porters (who unloaded ships etc.) dated 13 May 1807 in ETC Records Vol. 148 pp327-351. Members of the Society of Porters had to be of good character, had to wear the numbered City badge issued and could not refuse to carry coals to high flats.
- 41 Bye-laws & Regulations for the Wet Docks at Leith dated 16 July 1806 are detailed in ETC Records Vol. 146 p282. Reg. 18 created an offence for throwing stones or rubbish into the new docks.
- 42 Regulations for the New Corn Sample Market dated 29 Oct. 1806 are detailed in ETC Records Vol. 147 p179.
- 43 Regulations for the Carters of Edinburgh & Leith dated 22 April 1807 are detailed in ETC Records Vol. 148 pp237-250. Carts required to be numbered and bear the name of the

licensed Carter. Stances were prescribed. No cart could exceed 20 cwt and no boy under 14 years was allowed to drive under the penalty of fines.

- 44 Regulations for the Public Weigh House, Flesh & Fish Markets dated 28 Feb. 1810 can be found in ETC Records Vol. 155 p317.
- 45 Regulations for Tronmen, Chimney Sweepers & Firemen were detailed see ETC Records Vol. 158 pp40-49 for Regulations & a Table of Rates dated 27 Feb. 1811. No householder could be fined for and accidental chimney fire if the flue had been swept within 6 weeks. Each member of this Society had to take turn at sitting in the City Guard House in the high Street for the purpose of raising the alarm to other Members in the event of fire and all Members were obliged to wear the numbered City badge on their breast.
- 46 Arnot (1816) History, p382 "As judges they tried offences against laws of their own making; and as executive magistrates, they saw their own sentences put into execution".
- 47 Arnot (1816) History, pp448-462. SAS Vol. 1 pp211-226 pertaining to parish of Cramond and NSA Vol. I - Edinburghshire p600.
- 48 Arnot (1816) History, pp405-409.
- 49 Arnot (1816) History, pp409 & 410. By their Charter, they were empowered to choose a Preses, known as the Master of the Merchant Company, 12 Assistants, a Treasurer, Clark and Officer. See also Alex Heron, The Rise And Progress Of The Company Of Merchants Of The City Of Edinburgh 1681-1902 (Edinburgh, 1903).
- 50 Following the establishment of the Glasgow Chamber in 1783 by Patrick Colquhoun, the Edinburgh Chamber of Commerce and Manufacturers was founded in 1785 and incorporated by Royal Charter in 1786. Although Edinburgh merchants like Sir William Forbes were members it represented Trades interest.
- 51 NSA Vol. 1 - Edinburghshire (1845) p681. There were 1332 students in 1811; 2091 in 1881; 2056 in 1821; and 1808 in 1831.
- 52 Union with England Act 1707 c7 and 6 Anne (1706) c11.
- 53 Arnot (1816) History, pp401-404 and  
See Stanley Horsfall Turner, History Of Local Taxation In Scotland (Aberdeen, 1908).
- 54 6 Anne (1706) c11 - Article IX apportioned £48,000 in Land Tax liable by Scotland and the Convention of Royal Burghs determined that one sixth of this sum was liable by the Royal Burghs alone. These specific charges were detailed later in 38 Geo III c5 - Land Tax Act, 1797, Section 128 over an eight month Cess.
- 55 Turner (1908) Local Taxation, pp161-162. The amounts due under the land tax or cess in burghs were levied on the rule that owner occupation of property should be valued at 6% of the purchase price, and that tenant occupation should be valued at  $\frac{4}{5}$ <sup>ths</sup> of the real rent.
- 56 Edinburgh Advertiser (No 3993) 6 April 1802 announced that on 25 March 1802 the Treaty of Peace with France had been ratified and that on 2 April 1802 the Chancellor intimated the repeal of Income Tax.
- 57 Scots Magazine 1803 p882 describes the reintroduced Income Tax regime with progressive rates ranging from 3d in the pound at £60 income threshold, to 1/- in the pound on annual income exceeding £150. Later 48 Geo III c55 - The House Tax Act, 1808 placed management of the new 'window tax' under Commissioners for the Affairs of Taxes. Amendments to the House Tax Act followed in 1817 and 1825 - see 57 Geo III c25 and 5 Geo IV c7 respectively.
- 58 Edinburgh Advertiser (No 4491) 9 January 1807 p31 announced the start of the New State Lottery with a £20,000 monthly prize drawn in London, The Licensed Lottery Office in Edinburgh was based at 102 South Bridge - see 46 Geo III c148 - The Lotteries Act, 1806.

- 59 ETC Records Vol. 140 p229 re meeting 8 August 1804.
- 60 The annual Act of Council raising 'Watchmoney' in the City was specifically to meet the cost of the City Guard, originally introduced in 1514. The 6% Annuity charge was to meet the salaries of Church Ministers in the City and the 2% Poores' money enabled disbursements and relief under that head. Like the Land Cess and Stent, all monies raised were forwarded to the City Chamberlain.
- 61 ETC Records Vol. 140, pp222-224 re meeting 8 August 1804 at which date is reports from the 1st Bailies Committee on account of Land Cess and Trading Stent, on Watchmoney and on the 6% Annuity; and p71 re meeting 27 June 1804 at which the Stent Masters, Messrs Smith and McQueen report valuations in Scots money.
- 62 ETC Records Vol. 141, p99 re meeting 7 November 1804 details a letter received from John Dundas, Esq., Clerk to the General Convention of Royal Burghs of Scotland explaining the mode of the proposed new Tax Roll for Royal Burghs.
- 63 ETC Records Vol. 140, p214 re meeting 8 August 1804 at which the 1st Bailies Committee reviews the Report of the Stent Masters on the impost on wine.
- 64 ETC Records Vol. 145 p29 for revised Seat Rent charges.
- 65 ETC Records Vol. 141 p10 re meeting 10 October 1804. Note that the history of the Impost on Ale which raised several hundred pounds per month was presented in detail at the TC meeting on 30 January 1805 see Vol. 141 pp287 to 334.
- 66 ETC Records Vol. 140, p324 re meeting on 29 August 1804.
- 67 ETC Records Vol. 144 p271 re McVicar appointed Collector of Watchmoney & ETC Records Vol. 145 p29 re McVicar appointed Collector of Seat Rents.
- 68 Edinburgh Advertiser (No 4680) dated 4 November 1808 p289 details the articles of roup let of the Common Good income.
- 69 3 Geo IV (1822) c91, provided the style of annual accounts for the Common Good & other Revenues in Royal Burghs, which had to be certified by the Lord Provost and was open for inspection.
- 70 ETC Records Vol. 138, p298 detailing request by letter from William Galloway, Moderator Constable, presented at the TC meeting on 6 July 1803; Vol. 140 p379 re meeting on 5 September 1804 which authorised payments for Bridewell prisoners, the sums which varied annually in arrears; Vol. 142, p51 re meeting on 26 February 1805 which approved a subscription for the Life Boat at Leith; Vol. 143, p22 re Act of Council for raising Lord Provost's salary authorised at meeting 29 May 1805; Vol. 147 p291 re meeting on 24 December 1806 which approved relief for prisoners in France; and Vol. 156 p48 re meeting on 30 May 1810 which approved two new sentry boxes for the Lord Provost's house.
- 71 ETC Records Vol. 155 p113 re meeting 4 December 1809; Vol. 157 p95 re meeting 17 October 1810; and Vol. 156 p279 re meeting 15 August 1810 which considered a Joint Report from the Superintendants of Public Works and Water on the city water supply.
- 72 Some of the Town Council sponsored capital projects in Edinburgh at the beginning of the 19<sup>th</sup> century included:
- 1801, commencement of the eastern wet docks in Leith, completed in 1806
  - 1801, draining of the Meadows with the view to giving employment to the industrious poor;
  - 1807, erection of the salt-water baths at Portobello;
  - 1808, commencement of the new Gaol in the High Street;
  - 1809, commencement of the Lunatic Asylum at Morningside
  - 1811, commencement of the middle wet dock in Leith completed in 1817
  - 1815, commencement of the Regent Bridge and the new Calton Jail;
  - 1817, erection of New County Building in Parliament Square West;
  - 1818, commencement of the Union Canal, completed 1822;
  - 1821, the Nor' Loch to the west of the Mound was enclosed, drained and planted with

- trees and shrubs and walkways laid;
- 1822, completion of Register House, Princes Street;
  - 1825, commencement of new Royal High School at Calton completed in 1829;
  - 1833, erection of Dean Bridge with a roadway 120' above the Water of Leith;
- See WM Gilbert, Edinburgh In The Nineteenth Century (Edinburgh, 1901) pp25-97.
- 73** Other non-essential Town Council led capital projects of the period for which public subscriptions were sought included:
- 1807, commencement of Lord Nelson's monument on Calton Hill on the anniversary of the battle of Trafalgar, completed 1814;
  - 1821, commencement of the Melville Monument in the centre of St Andrews Square in memory of Lord Viscount Melville (died 1811);
  - 1822, commencement of the National Monument on Calton Hill to commemorate the 'unparalleled victories' of the late wars. The original plan to construct an edifice like the Parthenon of Athens at a cost of £16,000 did not materialise, for the plan was abandoned after only £15,000 was raised and only 12 columns built.
- See Gilbert (1901) Edinburgh, pp46, 72, & 75.
- 74** At a meeting 11 March 1802 in the Merchant's Hall the motion of the Hon Henry Erskine to consider plans for the Union Canal linking Edinburgh to the West, by public subscription was approved. Work did not commence until 1818 and the 31 mile canal was completed in 1822. In 1807 a pamphlet was published proposing a tunnel under the Firth of Forth connecting North and South Queensferry but the proposal failed to gain public support. See Gilbert (1901) Edinburgh, pp35 & 72 and p44.
- 75** In Edinburgh, private Acts obtained in 1785, 1786 and 1787 imposed temporary rates of 10% on rental values for the purpose of City improvements - see Turner (1908) Local Taxation, p191.
- 76** Arnot (1816) History, p341 outlines the history of the city water supply. See also SAS First letter from Wm. Creech on Edinburgh (1792) pp38-39 and 59 Geo III c116 - Edinburgh Joint Stock Water Company Act, 1819.
- 77** Cockburn (1856) Memorials, p305.
- 78** Acts of the Lords of Council 1501-54 pp446-7; and Turner (1908) Local Taxation, p190-191.
- 79** The contribution of Wm. Creech to The SAS (1792) in the form of two letters was drawn from his publication Fugitive Pieces (Edinburgh, 1791).
- 80** Quoted by Thomas H. Shepherd in Modern Athens (Edinburgh, 1829) p22.
- 81** A useful distinction in Scots Law is made between 'crimes' recognised at common law (e.g. assault, theft, housebreaking etc.) and statutory 'offences' which have been introduced by Acts of Parliament to regulate aspects of socio-economic activity for the benefit of the community - see Baron David Hume, Commentaries Of The Laws Of Scotland Respecting Crimes (Edinburgh, 1797), Volume 1.
- 82** APS 1696 c26 required the heritors of each Parish to provide a school. The school master was appointed by the heritors and the parish minister. Prior to the Reformation many of the schools were provided by the Church.
- 83** NSA Volume 1 - Edinburghshire (1845), pp683-685 and Arnot (1816) History, pp420-22. While a new Royal High School was commenced in 1777 at the foot of Infirmary Street, another new building was commenced in 1825 at Calton Hill (opened 1829 and still extant).
- 84** Arnot (1816) History, pp566 & 568 re Heriot's and Watson's schools respectively, and also SAS First letter of Wm Creech (1792) pp36-37. NSA Volume 1 - Edinburghshire (1845) p685. The Heriot's Trust schools were for the gratuitous education of poor children belonging to deceased burgesses, freemen and other poor citizens of Edinburgh.
- 85** See Devine & Mitchison (1988) People And Society, Chapter 9 on Schooling, Literacy and Society by Donald J Witherington. Although the 1818 Education Survey was undertaken by

the general Assembly of the Church of Scotland, it was directed by a HC Select Committee instigated by Henry Brougham.

- 86 Cockburn (1856) Memorials, pp358-9. The £12,000 cost was raised by public subscription of £50 shares.
- 87 Arnot (1816) History, p322, p525 & p546 and NSA Volume 1 - Edinburghshire (1845), p728 re Physicians and Surgeons incorporations respectively. Physicians Hall was erected between 1775-77 in George Street and Surgeon's Hall erected between 1825-32 in Nicolson Street, the latter building still extant. The first Infirmary, located at the top of Infirmary Street was pulled down during the building of South Bridge in 1785. The second Infirmary to the design of William Adam erected at the foot of Infirmary Street functioned until 1873 and is still extant. See also SAS First Letter from Wm. Creech on Edinburgh (1792) p38.
- 88 Arnot (1816) History, p541. The Post Office was established in 1635 in Post Office Close off the High Street, thence it was moved to various places before located in 1821 in Waterloo Place - see Robert Chambers, Traditions Of Edinburgh (Edinburgh, 1824) p129.
- 89 NSA Volume 1- Edinburghshire (1845) p751.
- 90 32 Geo III (1758) c15, Sections 1, 4 & 8 and SAS First Letter from Wm. Creech on Edinburgh (1792) p31.
- 91 Arnot (1816) History, p464 reckoned that there were 188 Sedan Chairs in the City along with 50 private Chairs. See also SAS First Letter from Wm. Creech on Edinburgh (1792) pp25-26.
- 92 Arnot (1816) History, pp568-70 for details and stage coach departures from Edinburgh. Some destinations like Glasgow and London had coaches travelling by three different routes.
- 93 W Maitland, History Of Edinburgh From Its Foundation To The Present Time (Edinburgh, 1753), p14, Defoe commented that the difficulty of obtaining an adequate water supply to a town built upon a high ridge was the principal cause of the filth in the streets, rather than the uncleanness of the inhabitants - see Daniel Defoe, A Tour Through Britain (London, 1727), Vol. 3. In his description of Scotland p31-2. Topham observed that "in the morning the streets are so clean, that foot-passengers walk in the middle of them" - see E Topham, Letters From Edinburgh (London, 1776) 1971 edition. Chambers reminded readers that "It must be understood that in the middle of the eighteenth century vagrant swine went as commonly about the streets of Edinburgh as dogs do in our day" - see Chambers (1824) Traditions, p276.
- 94 Act of Council regulating the Time for emptying and laying down Ashes, foul Water and other Nastiness, dated July 12th 1749 - Edinburgh Central Library.
- 95 NSA Volume 1 - Edinburghshire (1845) p627, p643 & p758. sketches the history of lighting in the City up until the formation of Edinburgh Gaslight Company in 1817.
- 96 Arnot (1816) History, p432 & pp453-454 and Chambers (1824) Traditions, p49.
- 97 SAS - First Letter of Wm. Creech on Edinburgh (1792) p31. The Edinburgh Advertiser (est. 1763) was the prominent journal on the Conservative side.
- 98 Cockburn (1856) Memorials, p155 & p265. The Edinburgh Review appeared under the auspices of Brougham, Jeffrey, Horner, and Sidney Smith who were leading Whigs in the City and The Scotsman was promoted as the first Government opposition (i.e. Whig) newspaper.
- 99 Smollet (1771) Humphry Clinker - 1967 edition p267.
- 100 Arnot (1815) History p 335 & p352.

- 101 Chambers (1824) Traditions, pp158-173 on Taverns of Old Times. At p114 reference is made to the coffee house kept by businessman Peter Williamson who published the first Directory of Edinburgh (1773-4) and the first penny post (1774-5).
- 102 Arnot (1815) History, p381 and Chambers (1824) Traditions, pp43-45 & p265 for details of the dance halls. Although the New Town Assembly Rooms in George Street became the centre of attraction, the Old Assembly Rooms in West Bow were not demolished until 1836.
- 103 See Alexander Murray Dunlop, Esq., Advocate, Treatise On The Law Of Scotland Relative To The Poor (Edinburgh, 1825); and RA Cage, The Scottish Poor Law 1745 - 1845 (Edinburgh, 1981), Chapter 1.
- 104 Sinclair (1825) Analysis, Volume Two, Chapter III, pp141-226 on the Poor in Scotland.
- 105 Sinclair (1825) Analysis, p142 & p146. Dr Thomas Chalmers (1780-1847) was a very influential minister from 1815 whilst at Tron parish, Glasgow, before he progressed to the chair of theology at Edinburgh in 1827. He eventually lead the Disruption in 1843 when he and other ministers seceded from the Church of Scotland and founded the Free Church of Scotland.
- 106 Sinclair (1825) Analysis, pp149-150, p152 & p166. The APS 1672 c18 regulated licensed beggars who had the option to either avail of this privilege or require relief from parochial funds.
- 107 Sinclair (1825) Analysis, p165 on funding poor relief and p170 on financial assistance levels. See also Cage (1981) Scottish Poor Law, p7. In towns, assessments were imposed on inhabitants at large, whilst in country parishes, 50% was imposed on heritors and 50% on their tenants.
- 108 NSA Volume 1 -Edinburghshire (1845) p712 re 6% Poores' assessment in Edinburgh; and p743 re city workhouses. Canongate Workhouse averaged 97 inmates and 186 out-pensioners, and St Cuthberts workhouse had up to 385 inmates. The City bedlam or Lunatic Asylum held 116 persons whilst another in St Cuthberts parish held 65 persons. See also Cage (1981) Scottish Poor Law, Chapter 5.
- 109 Cage (1981) Scottish Poor Law, p63, Table II.
- 110 Cockburn (1856) Memorials, p63 & p264 on the 'dearths' of 1795/96 and 1816/17 respectively.
- 111 See Devine & Mitchison (1988) People And Society, Chapter 12 on the Poor Law by Roslind Mitchison; Saunders (1950) Scottish Democracy, Chapter 3 on Poverty and Poor Relief ; and Sinclair (1825) Analysis, pp180-191 on the Chalmersian system.
- 112 Scots Magazine (1800) p67 & p896-898 re Edinburgh Poor bill arrangements; and (1801) p220 for details of the School of Industry.
- 113 Scots Magazine (1800) p67, (1801) p148 and (1820) p77.
- 114 Edinburgh Advertiser (No. 3984) dated 5 March 1802 for Edinburgh Society AGM and resolution to abolish vagrant begging. See Scots Magazine (1813) pp111-118 and Cockburn (1856) Memorials, p232 re change to Edinburgh Society for the Suppression of Begging in 1812.
- 115 Arnot (1816) History, p447 on the Town of Leith; and Maitland (1753) History, p320 & p486.
- 116 NSA Volume 1 -Edinburghshire (1845) p762 on Leith jurisdictions. 7 & 8 Geo IV (1827) c112, Section 3 was the first statute to incorporate these territories as the 'Town of Leith' The Parishes of North and South Leith were divided by the Water of Leith river originating west of Edinburgh and entering Leith Harbour on the Firth of Forth. See Arnot (1816) History, p255 re Preceptory of St Anthony.



- 117 D Campbell, History Of Leith (Edinburgh, 1827), contains a list re Baron Bailies of Leith; and also D Robertson, The Bailies Of Leith (Edinburgh, 1915), A Miscellany of Historical Articles.  
The Tolbooth for Leith was built in 1565, demolished in 1818 and rebuilt between 1819 and 1822 - see NSA Volume 1 -Edinburghshire (1845) p766.
- 118 Maitland (1753) History, p495 re Baron Bailies of Leith.
- 119 Orders by the Honourable Magistrates of Leith Touching their Officers duty, published 20 November 1712; as detailed in Robertson (1915) Bailies Of Leith, pp5 & 6.
- 120 Arnot (1815) History, pp456-459 on history of Leith manufacturers; p467 re incorporated trades; and pp448-455 for accounts of imports & extorts at Leith for year 1779.
- 121 Gilbert (1901) Edinburgh, p33 and p42.
- 122 11 Geo III (1771) c30.
- 123 Proclamation of Magistrates of Leith regarding street cleansing regulations dated 2 November 1725 by Bailie Crokatt quoted in Robertson (1915) Bailies Of Leith, p168.
- 124 Proclamation of Magistrates of Leith regarding 'swine' running loose in streets dated 26 August 1727 by Bailie Carmichael quoted in Robertson (1915) Bailies Of Leith ppl71-72.
- 125 Proclamation of Magistrates of Leith creating penalties for the breaking of lamps and posts, dated 30 November 1727 by Bailies Hamilton & Davidson quoted in Robertson (1915) Bailies Of Leith p174.
- 126 Account of John Crawford, Merchant in Leith for repairing & working the first engine at Leith between 1743 and 1755 dated 30 August 1756 quoted in Robertson (1915) Bailies Of Leith p175.
- 127 NSA Volume 1 - Edinburghshire (1845) p780 re Leith Academy which held up to 700 pupils, and p780 re poverty relief in Leith.
- 128 Canonmills on the Water of Leith had flour mills from early days and paper mills from 1681 see Arnot (1816) History, p253.
- 129 SAS Volumes pertaining to Edinburghshire (1791 to 1799). The NSA was produced by a Committee appointed by the General Assembly to the Church of Scotland in 1832 and published in 1845.
- 130 SAS Second Letter from William Creech on Edinburgh(1792).
- 131 SAS Volume XVI (1792) covers the Parish of Inveresk by the Rev Dr Alexander Carlyle (1722-1805) who was Minister from 1748 and a friend of David Hume and Adam Smith, with quote from p33.
- 132 For a history of these Offices, see Robert Boyd, The Office, Powers, And Jurisdiction Of His Majesty's Justices Of The Peace And Commissioners Of Supply (Edinburgh, 1787) 2 Vols.; and Gilbert Hutcheson, Treatise On The Offices Of Justice Of Peace; Constable; Commissioner Of Supply (Edinburgh, 1806) , 2 Vols.
- 133 SAS Volume XVI (1792) on Parish of Inveresk, p4, p15 & p27. Musselburgh TC had 2 new Councillors appointed and its 2 Bailies and Treasurer elected annually. The Tolbooth Built was from the ruins of Loretto Chapel. St Michael's Church Spire a landmark for miles around bears the date 1805 on the base; and NSA Volume 1- Edinburghshire (1845) p294.
- 134 The Duke of Buccleuch owned  $\frac{7}{8}$ <sup>ths</sup> of the land in the Parish of Dalkeith and was also Lord Superior of the Regality of Musselburgh - see NSA Volume 1- Edinburghshire (1845) p496, pp509-510 & p512 and SAS Volume XVI (1792) p25. The Edinburgh & Dalkeith Railway

Co. incorporated in 1826 was originally worked by horses and intended for the conveyance of coal and farm produce.

- 135 The first mention of JP's for Scotland was in APS, iii, 1587, C57; but APS, iv, 1609, C14 was the first serious attempt to plant the justices in Scotland. In APS, iv, 1617, C8 James VI tried to strengthen their position. 6 Anne 1707 C40 - The Union with Scotland (Amendment) Act, 1707, Section 2, restated the need to appoint JP's for Scotland, but Section 3 specifically excepted Edinburgh & other Royal Burghs from this requirement. In Scotland, whilst the most serious often capital crimes were tried before the High Court of Justiciary sitting in Edinburgh or on circuit, the less serious non-capital crimes were dealt with by the Sheriff rather than JP's in Quarter Session as was the practice in England & Wales.
- 136 20 Geo II c43 - The Heritable Jurisdiction (Scotland) Act, 1747, Section 29 enabled a Sheriffs Depute or Stewart Depute to be appointed in every country, shire or stewartry in Scotland.
- 137 APS, vii, 1661, c338. Surviving JP Quarter Session Minute Books for the County of Midlothian commence in 1810 - see SRO JP 4/2/2. The petty sessions JP Court records are not extant.
- 138 6 Geo IV (1825), c48, Section 27. APS, vii, 1661, c338, Section 14 provided power to Quarter Sessions to regulate the wages of servants and other rural hired workmen. Only in 1813, did the Act 53 Geo III (1813), c40 remove the power to regulate wages. Although Commissioners of Supply had power to make assessments to provide better roads, JP's had control of all petitions to alter or close roads as well as enforcing all road traffic offences. The Act 35 Geo III (1795) c123 established small debt courts under the control of JP's with a jurisdiction limited to £40 Scots and being so popular became permanent in 1800 under the Act 39/40 Geo III (1800) c46.
- 139 29 Geo II (1756), c12. The granting of liquor licences was by far the most important duty of JP's. They were required to hold a Special Session on the 1st November each year to grant and renew all licences outside Royal Burghs. Midlothian records of license certificates date from 1828 - See JP 4/3/1.
- 140 APS, vii, Act of Convention 23 January 1667. A 'heritor' was any landowner who paid the Cess or Land Tax. Power of appointing officials was laid down in the Land Tax Acts. 6 Anne (1707) c35 was the first British Land Tax Act with several other Acts before 38 Geo III (1797) c5 made the land tax perpetual.
- 141 38 Geo III (1797) c5 Section 137 provided only heritors or life renters of lands valued in the Tax Roll to the extent of £100 Scots per annum could be Commissioners of Supply.
- 142 11 Geo I (1724) c26 known as the Rogue Act.
- 143 28/29 Vic (1865) c38 ended the Sheriff's duty to call the annual Land Tax meeting, which during the early 19<sup>th</sup> century was held on 30 April each year.
- 144 'Striking the fiars' was the process for determining the average prices of grain for the county which was undertaken by a jury called and overseen by the Sheriff.
- 145 The increase in the volume of work undertaken by Sheriffs was addressed in the 3 Reports of the Commissioners, appointed by HM Warrant of 2 November 1808; For enquiring into the Administration of Justice in Scotland, relating to matters of a Civil Nature.
- 146 Although 4 Geo IV (1823) c97 abolished inferior Commissary Courts throughout Scotland, civil causes pertaining to marriage, divorce, bastardy and wills rested in the Court of Session and Sheriff Courts, the Commissary Court of Edinburgh was not abolished until 1836; 6 Geo IV (1825) c24 extended small debt jurisdiction to Sheriffs which initially had been granted to JP's in 1795; and 11 Geo IV/I Wm. IV (1830) c69 reverted civil jurisdiction of the Admiralty Court to the Court of Session and Sheriff Courts.
- 147 SAS Volume 1(1790) on Parish of Cramond p212.

- 148 SAS Volume XIX (1794) on Parish of Collington p584." Whereas 42 old ploughgates worked by 4 horseploughs involved 168 horses and 84 men, the same area now only required 120 horses (60x2 horse plough) with 60 men." James Small manufactured 300 to 500 new two horse ploughs yearly at Ford near Dalkeith.
- 149 NSA Volume 1- Edinburghshire on Parish of Liberton p14.
- 150 SAS Volume XIX (1794) on Parish of Collington p583-584.
- 151 NSA Volume 1- Edinburghshire (1845) p71, p289, p382, p575 & p606 re coal production in Parishes of Newbattle, Inveresk, Duddingston, Newton and Cockpen respectively.
- 152 NSA Volume 1- Edinburghshire (1845) on Parish of Inveresk p289.
- 153 SAS Volume XVI (1792) on Parish of Inveresk p17. The NSA Volume 1- Edinburghshire (1845) p289 refers to 28 fishing boats at Musselburgh.
- 154 SAS Volume XVI (1792) on Parish of Inveresk p4 & NSA Volume 1- Edinburghshire (1845) on Parish of Inveresk p292.
- 155 SAS Volume IX (1792) on Parish of Cranston p278.
- 156 NSA Volume 1- Edinburghshire (1845) on Parish of Dalkeith p509.
- 157 NSA Volume 1- Edinburghshire (1845) on Parish of Temple p52.
- 158 NSA Volume 1- Edinburghshire (1845) on Parish of Penicuik p33/34 6,000 French prisoners were kept at Valleyfield by 1,500 soldiers, and by the close of war in 1814, 300 prisoners had been interned there.
- 159 NSA Volume 1- Edinburghshire (1845) on Parish of Colinton p125.
- 160 NSA Volume 1- Edinburghshire (1845) on Parish of Cramond p600.
- 161 SAS Volume 1(1790) on Parish of Cramond p219.
- 162 SAS Volume XIV (1793) on Parish of Crichton p435; and NSA Volume 1- Edinburghshire (1845) on Parish of Temple p52.
- 163 NSA Volume 1- Edinburghshire (1845) on Parish of Newbattle p71; and SAS Volume 1(1790) on Parish of Cramond p212.
- 164 See Smout (1985) History, p374 Table II which sources wages for these workers in Glasgow and Arbroath from the SAS and NSA.
- 165 45 Geo III (1805) c48 refers to 210 persons eligible to act as Commissioners of Supply, from which a core group of 20 to 40 of the wealthier heritors were so appointed.
- 166 6 Anne (1706) cII, Article XXV prescribed the pattern of representation between Shires and Royal Burghs. Edinburghshire had thus only 1 Member or Commissioner returned to the House of Commons, despite having much greater populations than neighbouring Shires - see key to Figure 1A herein. The groupings of smaller Shires were Buteshire & Caithness; Clackmannanshire & Kinross-shire; and Cromarty & Nairnshire which returned 1 Member each in rotation. Whilst Edinburgh including Leith returned 1 Member or Commissioner to the Commons, various groupings of other towns returned their own Commissioner. For example Jedburgh, Lauder, Haddington, Dunbar and North Berwick burghs return 1 Member, and Selkirk, Peebles Lanark and Linlithgow returned another.
- 167 Sinclair (1825) Analysis, Volume One, Chapter IV on the General Divisions of Scotland on matters political.

- 168 16 Geo III (1776) c2 prescribed the franchise, which previously was land valued 40/- of old extent.
- 169 Henry Dundas (1742-1811) became MP for Midlothian in 1775; Lord Advocate in 1776; President of the Board of Control under Pitt in 1784; and after his resignation with Pitt in 1801 became Viscount Melville in 1802. Although impeached in 1805 for 'gross malversation and breach of duty' as treasurer of the navy his peers acquitted him on all charges.  
See George WT Omond, The Lord Advocates Of Scotland (Edinburgh, 1883) 2 Volumes, Vol. II Chap XIV and Holder Furber, Henry Dundas - First Viscount Melville (London, 1931).
- 170 Edinburgh Advertiser (No 4025) dated 27 July 1802 reported in full the speeches given by Henry Dundas during the elegant dinner following the meeting on 24 July 1802, in George Street Assembly Rooms, hosted by Robert Dundas for the freeholders of the County. ETC Records Vol. 137 pp388-391 revealed this blatant lobbying by letters from Henry Dundas and Lord Advocate Hope in December 1802.

## Chapter Two - CRIMINAL JUSTICE AND EXISTING POLICE AND SYSTEMS OF POLICE CIRCA 1800

- 1 See NT Phillipson & Rosalind Mitchison (editors), Scotland In The Age Of Improvement, (Edinburgh, 1970), Chapter 7 on Law and Society in Eighteenth Century Scottish Thought by Peter Stein.  
The institutional writers in Scots law are those jurists whose work are regarded as an authoritative source of law in the absence of statute or case law. As regards criminal law, institutional works include Sir George MacKenzie, The Laws And Customs Of Scotland In Matters Criminal (Edinburgh, 1678), and Baron David Hume, Commentaries On The Law Of Scotland Respecting Crimes (Edinburgh, 1797), 2 Volumes.  
See Scots Magazine (1785) pp475-6; and  
Phillipson & Mitchison (1970) Age Of Improvement, Chapter 6 on Scottish Public opinion and the Union in the Age of Association, by NT Phillipson, p126.
- 2 Greenshields v Mags of Edinburgh (1710 - 11) Rob 12.
- 3 48 Geo III (1808) c151 created the First and Second Divisions of the Court of Session; 55 Geo III (1815) c42 introduced jury trials in civil causes; and 6 Geo IV (1825) c120 created the Inner - v - Outer House functions. Early 19th C reforms of the Court of Session followed the 3 Reports of The Commissioners, Appointed by HM Warrant of 2 November 1808: For Enquiring into the Administration of Justice in Scotland, relating to matters of a Civil Nature - SRO.  
See the account given in Henry Cockburn, Memorials Of His Time (Edinburgh, 1856) p96; also David M Walker, The Scottish Legal System (Edinburgh, 1969) 3<sup>rd</sup> edition p182. Although criminal jury trials had existed the 13<sup>th</sup> century, the Scottish Civil Jury Court had vanished by the 16<sup>th</sup> century; and  
Edinburgh Review (Volume 9) pp426-492 which details the proposed reforms for the Court of Session in 1806.
- 4 APS 1672 c16 established the High Court of Justiciary. Whereas in England after the Norman conquest, the Chief Justiciar as one of the Kings Great Officers of State responsible for the universal superintendence of all matters pertaining to the administration of justice, was the President of a tribunal of justices from the High Court of Parliament. Rather the king appointed the Justiciar and by APS 1587 c82 he could appoint deputies by Commission. - See Hume (1797) Commentaries, Volume II Chapter 1.
- 5 APS 1681 c22 reduced quorum of 4 Judges to 3 for High Court.
- 6 The circuit courts laid down in APS 1672 were -  
Dumfries & Jedburgh to the south;  
Stirling, Glasgow & Ayr to the west; and  
Perth, Aberdeen & Inverness to the north

in which two Lord Commissioners of Justiciary would sit.

Later 20 Geo II (1746) c43, enjoined Judges on Circuits to continue for at least 6 days in circuit towns for the despatch of business.

- 7 The so-called four 'pleyes of the crowne' originate from the statutes of King Malcolme II (1004) c11 and later included with other 'auld lawes' of the kingdom in the Regiam Majestatem by Sir John Skede (Edinburgh, 1609).
- 8 Act 1 Will IV (1830) c69. The office of Lord Justice General was for long hereditary under the Dukes of Argyll, but was held under the Crown by various noblemen, latterly James Graham 3rd Duke of Montrose from 1795 to 1836 when it was vested in the Lord President of the Court of Session. - See George Brunton & David Haig, Senators Of The College Of Justice From 1532 (Edinburgh, 1836) Introduction p34.
- 9 Lord President Charles Hope of Granton (b 1763 d 1851) was the eldest son of John Hope Esq., grandson of 1st Earl of Hopetoun - See Brunton & Haig, Senators p545 and also George W T Omond, The Lord Advocates Of Scotland (Edinburgh, 1883), Vol. 2 pp 205-219.
- 10 Hume (1797) Commentaries, Volume 2, Chapter V pp 130-136 outlines the history of the office of Lord Advocate - see also Omond (1883) The Lord Advocates, Vol. 1, Chapter III
- 11 APS 1587 c88.
- 12 Whilst the Lord Advocate and Solicitor General for Scotland are members of either the House of Commons or House of Lords and appointed by Government, Advocates Depute are drawn periodically from the Faculty of Advocates to take charge of prosecutions.
- 13 APS 1587 c91 referred to by Hume (1797) Commentaries, Volume 2 p283.
- 14 Cockburn (1856) Memorials, pp 356-357 which makes references to articles in the Edinburgh Review (Volume 39 - 1824) pp363-365 and (Volume 42 - 1825) pp400-409.
- 15 20 Geo II c43 Section 1 dissolved 'all heretable jurisdictions of justiciary, and all regalities and heretable bailleries, and all heretable constabularies, other than the office of high constable of Scotland'. As regards those in existence until they were extinguished by the death of the holder; Section 17 provided that from 25 March 1748, there was no jurisdiction in capital cases, nor criminal matters except assaults & smaller crimes where the penalty did not exceed 20/- fine or 3 hours in stocks in daytime.
- 16 High sheriff and Assize were earlier adopted English terminology, the equivalent Scottish terms by 1800 being Sheriff Depute and Jury.
- 17 Criminal Trials Before The Lord Provost With Assize, Volume 4 (1789-1828) held at Edinburgh City Archives. The first case recorded against four accused indicted for serious assault on Robert McLean, Accountant of Excise on 7 November 1888 when they attacked him in his Observatory House on Calton Hill, has the testimony of all witnesses detailed verbatim between pp 1-54. The cases which followed in 1826 to 1828 detailed the charges and witnesses, but summarised the evidence and verdict.
- 18 Criminal Trials Before The Lord Provost With Assize. Whilst no records of criminal trials before the Lord Provost with Assize extend beyond 1828, criminal trials before the Lord Provost without Assize exist in three Edinburgh Archives Volumes 5, 6 & 7 between 1826 and 1834 after which they cease.
- 19 Index of Bailie Court Processes: Fines & Fees 1800-22 (Box 210, Bundle 579); and Account of Fines 1814-38 (Box 279, Bundle 26) are the only records extant at Edinburgh City Archives. - See also Arnot (1816) History, p385 re the Bailie Court; and Aince A Bailie, Aye A Bailie, an Edinburgh City Museum publication 1974 on the 800 year long history of the Edinburgh Bailies - Edinburgh City Archives.
- 20 Bailie Court - Account of Fines 1814-38 *ibid.* are all hand-written accounts, presumably written daily and totalled at the end of each month. No details of persons fined are included.

- 21 Arnot (1816) History, pp381-384 for role of Bailies in criminal Courts. Edinburgh Tolbooth Warding and Liberation Books (Volumes 1 to 39) covering the period 1657 to 1816 are extant - SRO HH11. Volume 36 ends in July 1799 and there is an unexplained gap with Volume 37 beginning on 1 October 1810. The published Act of Council dated 15 September on Jail regulations is retained at Edinburgh Central Library. See also Act 44 Geo III (1804) c55 which regulated the granting of ale licences from 15 May 1805 in Royal Burghs and 22 May 1805 in Shires.. The licence fee was 1/- annually and fines were imposed for defaults. Advertisements reminded on the need for renewal as in The Edinburgh Advertiser (No. 4628) dated 5 May 1808 p290.
- 22 APS x (1701) c6 was the first Act to name the Procurator Fiscal as the official public prosecutor in local courts. The appointment of Procurators Fiscal was later vested in the Lord Advocate by virtue of 7 Ed VI (1907), c51, Section 22.
- 23 Procurators Fiscal received a mixture of court fines, county fees and Government fees well into the 19th century, before being placed on salaries which were phased in between 1861 and 1876 - See Anne E Whetstone, Scottish County Government In The Eighteenth And Nineteenth Centuries (Edinburgh, 1981), p21.
- 24 Edinburgh TC Records Vol. 149 p358 re motion of Lord Provost on Procurator Fiscal at meeting 21 October 1807, and Vol. 150 pp3-7 for Committee Report dated 26 October 1807 on Office and Duties of the Procurator Fiscal in the City from which Regulations were framed.
- 25 ETC Records, Vol. 150, p9 for appointment of Alex Ponton as Procurator Fiscal for Edinburgh.
- 26 The Bailies of Leith were appointed by Edinburgh from 1567 right down to the passing of the Municipal Reform Act in 1833. The Judge Admiral of Leith received £40 annually - see ETC Records Vol. 147 p95 for a typical authorisation on 10 September 1806.
- 27 Orders of by the Honourable Magistrates of Leith Touching their Officers duty, published 20 November 1712; as detailed in D Robertson, The Bailies of Leith (Edinburgh, 1915) pp5 & 6. Regulations of the Court of Admiralty and Bailie Court of Leith printed in 1813, are held at Edinburgh City Archives.
- 28 A halbert was an ancient axe-like weapon with a hook or pick on its back and a long shaft - still in use for defence and ceremonial purposes by the City Guard and Leith Town Officers at the beginning of the 19th century.
- 29 Robertson (1915) Bailies of Leith, pp12 & 13. Apart from salary the Town Officers received a new hat, new coat and vest, tow pairs of breeches a pair of stockings and a pair of shoes every two years.
- 30 ETC Records, Vol. 151 p31 which refers to the concurrent jurisdiction of the Bailies and the Sheriff Depute, during discussions on the need for a new jail. The original site for the Sheriff Court for the Shire is not known, but it was eventually located within Midlothian County Hall, built in 1817 on the east side of George IV Bridge at Lawnmarket. See also Records of JP's for Midlothian - SRO JP4.
- 31 Robert Clark, A View Of The Office Of Sheriff In Scotland (Edinburgh, 1824).
- 32 Hume (1797) Commentaries, Vol. 2 pp22-24 and Appendix X for twenty rules drawn up in 1765 by the Crown Agent. Presentment of crimes known as 'taking up ditty' was introduced by 8 Anne c16 - The Circuit Courts (Scotland) Act, 1709 and from May 1710 involved the Sheriff and JP's gathering evidence for the criminal case only, with no involvement in the actual prosecution. 23 Geo III c45 directed Lords of Justiciary by act of adjournal to determine how long Judges should continue on circuit with the assistance of the Sheriff for at least 3 days in each town.
- 33 20 Geo II c43 - The Heritable Jurisdiction (Scotland) Act, 1746. The 1746 Act appointed Sheriffs Depute for 7 years and then for life, but life appointments were delayed for a further 15 years by 28 Geo II (1755) c7 which made appointments ad vitam aut culpam.

- 34 Edinburgh And Leith Directory 1804-1805 p17 lists the Earl of Lauderdale as High Sheriff of the shire; and Edinburgh Almanack 1831 p251 lists the Duke of Buccleuch KT as Lord Lieutenant and High Sheriff for the shire.
- 35 20 Geo II (1746) c43, Section 29 enabled the Sheriff Depute to appoint and pay a Sheriff Substitute. The Sheriff Depute for Midlothian received £250 per annum - see Edinburgh Almanack 1800 p75. See also Reports of the Commissioners on the Duties, Salaries, and Emoluments, of the several Officers, Clerks and Ministers of Justice of the Courts of Law in Scotland (1815), 12 Reports - SRO.
- 36 Warrants rather than Acts of Parliament were used for Sheriff Depute appointments and salary increases by virtue of 20 Geo II (1746) c43 Section 29. For example the Warrant of 25 March 1811 resulted in almost half the 45 Sheriffs Substitute in Scotland receiving salaries from £200 to £240 - see SRO E/313/11/339.
- 37 21 Geo II c19 - The Sheriffs (Scotland) Act, 1747 dispensed with the need of the Sheriff to take down evidence in writing in summery prosecutions. Evidence viva voce greatly speeded up trial proceedings.
- 38 All Sheriff Clerks were required to be Notaries Public by a Court of Session Act of Sederunt of 1680. After 1707, the right of appointment passed from the Scottish Secretary of State to the Keeper of the Signet. After a damning Report from the Court of Session about the weaknesses of the Office, the Keeper of the Signet was issued with a new Government Warrant which eliminated the right to appoint Sheriff Clerks - see SRO, C/3/24/26-8 re Warrant of 13 August 1814.  
See also The Fourth, Fifth, Sixth and Seventh Reports of the Deputy Clerk Register of Scotland (1810-1813): PRO, HO 102 Correspondence Papers, Scotland.
- 39 SRO, E 233/1/396-7 re Regulations on Sheriffs Accounts, 6 February 1776 which enabled PF to take precognitions and the Sheriffs Depute to place the fee on their accounts.
- 40 A Sheriff Officer enforced civil Sheriff Court decrees in a similar manner to the Messenger-at-Arms who enforced civil Court of Session decrees. Under the common law of Scotland, the crime of 'deforcement' is committed by anyone who wilfully obstructs or prevents such an officer of the law from executing the legal warrant of the Court.
- 41 Scottish Records Society, Faculty Of Advocates In Scotland 1532-1943 (1944) p36, p59 & p175 respectively for Sheriffs Depute. Sir Wm. Rae had been Sheriff in Orkney between 1801-1809, and Adam Duff had been Sheriff in Forfar between 1807-1819.
- 42 Arnot (1815) History, p389 re 'watching and warding'.
- 43 Known as Leges Quatuor Burgorum Scocie - See APS i p21.
- 44 ETC Records Vol. 1 p33 A 'tulzie' was a street disturbance for which Edinburgh was famous. Such Acts of Council are contained in ETC Records - Vol. 2 p106 for 1557; Vol. 3, p56 for 156; Vol. 4, p53 and p162 for 156 and 1566; Vol. 7, p31 for 1583; Vol. 8, p127 for 1587; and Vol. 9, p142 p113 for 1589 and 1591.
- 45 APS iii (1592) p578 and APS iv (1597) p141 respectively.
- 46 ETC Records Vol. 4 p82 refers to Bailies appointed on 13 October 1563 to have the government of a quarter. The Act of Council in 1498, reference 52 *ibid.* also refers to 'quartermasters' assisting in the suppression of street disturbances. By 1585 the allowance to each quartermaster was £10 Scots yearly - see ETC Records Vol. 7 p222. For the 'quartiers' of Paris - see Alan Williams, The Police Of Paris 1718 - 1789, (Baton Rouge, 1979) pp137-149; and Clive Emsley, Policing And Its Context 1750 - 1870 (London, 1983) p11.
- 47 APS iv p230, p239 & p288 respectively. One mile from the Royal Palace of course reached the Castle and therefor applied to virtually the whole of the Old Town as well as a great area beyond that sector.
- 48 Inventory of City Charters, p 72-73.

- 49 ETC Records Vol. 12 p71 re Letters received from the Lords of Secret Council to elect Constables.
- 50 ETC Records Vol. 12 pp73-75.
- 51 ETC Records Vol. 12 p76.
- 52 For example in 1585 when a plague was ravaging Edinburgh the Bailies were authorised to hire 24 persons to keep watch and guard - 12 watch by day and; 12 by night, with a wage of £3 per month to each man - see ETC Records Vol. 7 p194.
- 53 ETC Records Vol. 11 p219 re nightly watch established in December 1606.
- 54 ETC Records Vol. 13 p298.
- 55 APS i, p37. The 'Laws of the Four Burghs' Clause 84 concerned the 'manner of swine holding in burghs'.
- 56 ETC Records Vol. 2, p238 re lanterns in 1554.
- 57 ETC Records Vol. 13, p43.
- 58 Sir James D Marwick, Sketch Of The History Of The High Constables Of Edinburgh (1865) Printed for private circulation - Edinburgh City Archives. See also E Topham, Letters From Edinburgh (1776) pp355-354 for a description of the Police of Edinburgh in 1775.
- 59 Only Volume 2 (1735-1771) and Volume 5 (1839-1866) of Minutes of the Society of Constables are extant at Edinburgh City Archives.  
See also Marwick (1865) Sketch, Appendix I for list of Office-bearers 1707 to 1865.
- 60 ETC Records Vol. 69 p3 re Instructions dated 23 May 1750; and ETC Records Vol. 107 p227 re Instructions dated 29 March 1786.
- 61 On 17 December 1785 the constables returned their badges of office to the Lord Provost after disagreement over expenses - see Marwick (1865) Sketch, p184.
- 62 Marwick (1865) Sketch, p189. The rolls for 1764 and subsequent years also show the names of new constables taking the places of those who had served for three years.
- 63 The oath *de fidele administratione officio* was administered to new constables only.
- 64 ETC Records, Vol. 113 p272.
- 65 Marwick (1865) Sketch, p192.
- 66 ETC Records Vol. 109 p339 re 'detecting' constable appointed on 13 June 1787.
- 67 ETC Records Vol. 127 p113 re 'vagrancy' constable appointed on 15 March 1797.
- 68 Marwick (1865) Sketch, p214.
- 69 ETC Records Vol. 137 p353.
- 70 The constable for each district is named in the annual editions of the Edinburgh Almanack.
- 71 Arnot (1815) History, p389 and ETC Records Vol. 13 p324 for Act of Council dated 8 February 1626 establishing the 'trained bands' of the city.
- 72 Records extant for the Trained Bands of Edinburgh are contained in 4 Volumes held at Edinburgh City Archives:  
Vol. 1 - Convivial Records 1750 to 1798;  
Vol. 2 - Society of Lieutenants 1752 to 1798;



- Vol. 3 - Minute Book of Society of Captains 1676 to 1779; and  
 Vol. 4 - Minute Book of Society of Captains 1780 to 1790  
 In 1663 the Society of Captains of the trained bands received a constitution from the Town Council - see ETC Records Vol. 22 p48 On 14 February 1798 the Town Council suspended the appointing of officers for the trained bands of the City during the subsistence of the Royal Edinburgh Volunteers which had been raised in 1794 - see ETC Records Vol. 128 p159.
- 73 ETC Records Vol. 17 p58 & p69 for Act of Councils 11 October 1648 and 1 November 1628 establishing the original Town Guard;  
 ETC Records Vol. 26 p129 for Act of Council 13 March 1679 establishing the corps called 'Greycoats' and see ETC Records Vol. 30 p121 for Act of Council 12 May 1682 which disbanded the 'Greycoats' and established the Town Guard of 108 men under a Captain; and see also Arnot (1815) History, p390 re origins of Town Guard.
- 74 ETC Records Vol. 33 p14 for resolution to form City Guard and APS ix (1690) p202 for approval and assessment on burgesses. Records extant for the City Guard held at Edinburgh City Archives are:  
 - Standing Orders for Officers and Men 1773 to 1817; and  
 - 4 Books entitled Obligations of Soldiers, each containing printed forms of obligation and loyalty to the Lord Provost. Each form was signed by the new recruit and the Lord Provost for the time being and are variously dated from 1773 to 1817.
- 75 ETC Records Vol. 140 p228 re typical estimates for City Guard for 1804-1805 detailed at meeting on 8 August 1804. As the actual expense for maintaining the City Guard at that time amount to about £1,400 annually, the additional sum was recovered as part of the cess.- see Arnot (1815) History, p390.
- 76 Robert Chambers, Traditions Of Edinburgh (Edinburgh, 1824) p179.
- 77 Sir Walter Scott, The Heart Of Midlothian (Edinburgh, 1818) p38, and Cockburn (1856) Memorials, p293.
- 78 Chambers (1824) Traditions, p179, and NSA (1845) Volume 1 - Edinburghshire p718. See also E.P. Minute Book (1805-1812) p43 re duties of City Guard guarding public banks between 9 o'clock and 7 o'clock each day and by rotation every two hours during the night.
- 79 Appointment of new Captains are minuted in unnumbered pages in the City Guard Standing Orders (1773-1817) *ibid*.
- 80 ETC Records Vol. 139 p67 appointment Francis Metcalf as Lieutenant.
- 81 ETC Records Vol. 141 p44 re Francis Metcalf appointed Overseer of the Flesh Markets; and p45 re refused Petition from serjeants & privates of City Guard for more pay (no details given).
- 82 City Guard Standing Orders (1773 to 1817) *ibid*. was commenced by Lord Provost Gilbert Laurie in March 1773. It contains an amalgam of ad hoc instructions in a chronological order on unnumbered pages, rather than a comprehensive list of duties.
- 83 Chambers (1824) Traditions, p179.
- 84 William Creech, Fugitive Pieces (Edinburgh, 1791) p90.
- 85 Cockburn (1856) Memorials, p168 although his recollections were written between 1821-1830.
- 86 City Guard, Obligations Of Soldiers (1773-1817) *ibid*. in 4 Volumes, one for each Company until the reduction in 1805 and the fourth covering the period 1805-1817.
- 87 Chambers (1824) Traditions, p179.
- 88 11 Geo III (1771) c36. For discussion of the Police bill - see ETC Records Vol. 88 p17.

- 89 Under the land tax or cess, tenant liability was on valued rent which was  $\frac{4}{5}$ <sup>th</sup> of the real rent.
- 90 Although 11 Geo III (1771) c36 created several new offences, they are contained in unnumbered sections of the 20 page text. No indication is given of how many night watchmen were appointed in each District.
- 91 12 Geo III (1772) c15 also extended the Liberties of Pleasance and Leith-Wynd.
- 92 The existing assessment of land tax or cess on valued rent(i.e.  $\frac{4}{5}$ <sup>th</sup> of real rent) amounted to 8% in the city.
- 93 Minutes Of Canongate Magistrates acting under the Act 12 Geo III c15 for lighting, cleansing and watching covers the period 30 July 1772 to 20 October 1811 - see Edinburgh City Archives, Miscellaneous Records, Vol. 5. Whilst there is some detail about lighting and cleansing contracts, detail about watching is sparse.
- 94 Minutes Of Canongate Magistrates (1772-1811), *ibid.* p49 re appointment on 20 Nov. 1776 of the Watch Committee headed by Baron Bailie Miller, and p50 re recommendations.
- 95 Minutes Of Canongate Magistrates (1772-1811), *ibid.* pp52-54 re referral and opinion of Henry Erskine, Advocate and Assessor to Burgh of Canongate.
- 96 Minutes Of Canongate Magistrates (1772-1811), *ibid.* p55 re appointment of four watchmen from 13 January 1777.
- 97 Minutes Of Canongate Magistrates (1772-1811), *ibid.* pp50-51 re regulations for watchmen.
- 98 Minutes Of Canongate Magistrates (1772-1811), *ibid.* p77 re meeting 24 December 1778 and appointment of the 4 watchmen.
- 99 Minutes Of Canongate Magistrates (1772-1811), *ibid.* p149 re meeting 28 November 1791.
- 100 46 Geo III (1806) c36 was the first Police Act to embrace the parishes of North and South Leith.
- 101 See Robertson (1915) Bailies of Leith, and also David Robertson, A History Of The High Constables Of Edinburgh (Edinburgh, 1924), Chapter XI re notes on the Constables of Leith 1810 to 1885, both of which make references to Leith records no longer extant.
- 102 11 Geo III (1771) c30 for cleaning and lighting South Leith. The Sederunt Books kept under this Act are headed Leith Police Commissioners, with  
Vol. 1 covering 1771 to 1780  
Vol. 2 covering 1780 to 1787  
Vol. 3 covering 1787 to 1794 (100 pages covering 1794 missing)  
Vol. 4 covering 1794 to 1803  
Vol. 5 covering 1803 to 1809.
- 103 L.P. Commissioners Vol. 1 pp1-2 & p123 details the annual election procedures for 30 new commissioners from more than 60 heritors present on 20 December 1774.
- 104 L.P. Commissioners Vol. 1, *ibid.* p16 and Vol. 2, p107 re eighty-four lamps in January 1784.
- 105 L.P. Commissioners Vol. 3 p115 re oil lamp fraud reported to meeting on 18 December 1789.
- 106 L.P. Commissioners Vol. 3 p60 re cleansing South Leith detailed at meeting on 26 September 1788.
- 107 L.P. Commissioners Vol. 2 p17 re acquisition of new fire engine .

- 108 L.P. Commissioners Vol. 3 p5 re plan for introducing iron water pipes and p175 for appointment of John Ross, Police officer at salary of £25 yearly.
- 109 L.P. Commissioners Vol. 1 p86 re appointment of James Shaw as Procurator Fiscal, p114 re motion to dismiss James Shaw and p128 re appointment of John Muir.
- 110 L.P. Commissioners Vol. 1 p22 & p65 re appointments of John Wright and then John Kennedy as Police Officers.
- 111 L.P. Commissioners Vol. 2 p148 details annual accounts which included payments to the Town Officers as Police Officers.
- 112 John Ross as full time Police officer was paid £29-7-3d in 1799 - see L.P. Commissioners Vol. 4 p170.
- 113 L.P. Commissioners Vol. 3 p68 re meeting 2 January 1789 which first appointed Committees of 3 Commissioners for the Shore, Tolbooth Wynd, Kirkgate, Potterrow and Lane, Quality Street, St Bernard's Street, Greenbree Street, Yardheads, Sheriff Brae & King Street and Links.
- 114 L.P. Commissioners, Vol. 4 pp322 to 325 re proposals for 60 watchmen outlined at a meeting on 9 September 1802.
- 115 L.P. Commissioners, Vol. 4 pp342 to 345 which details the letter from Sir William Forbes regarding the new Police.
- 116 The Committee of 5 Leith Commissioners included Baron Bailie William Sibbald and Bailie James Scarth.
- 117 Hume (1797) Commentaries, Vol. 2 p24 footnote 2.
- 118 Sir John Skene, First Buke of the Regiam Majestatem (Edinburgh, 1609), 1774 edition, Chapter XV which refers to statutes of Henry VIII (1509) c7 and Edward VI (1548) c24. See also Sir George MacKenzie, The Laws And Customs On Scotland In Matters Criminal (Edinburgh, 1678) p428 on the heretable coroner in Scotland.
- 119 APS iii (1587) p459. This Act also ordained Justice Ayres to be held throughout Scotland twice a year.
- 120 Hume (1797) Commentaries, Vol. 2 pp24-25.
- 121 Inventory of City Charters, i, 62.
- 122 APS, p434 and Inventory of City Charters, i p734.
- 123 APS, iv p539.
- 124 APS, v p42; vi p243, p470 & p892; and vii p312 respectively. 6 Anne (1707) c40 - The Union with Scotland (Amendment) Act 1707 for rendering the Union of the two Kingdoms more intire and complete, Section 2 repeats the requirement for a sufficient number of good and lawful men to be Justices of the Peace.
- 125 Even the APS of 1661 c38 did not vary greatly from the original Orders and Injunctions given to City Constables.
- 126 Justice of the Peace Quarter Session Records are extant for Midlothian only from 1810 onwards - see SRO JP4.
- 127 11 Geo 1 (1724) c26 enabled Commissioners of Supply to raise rogue money levied by freeholders at their Michaelmas Court for the purpose of apprehending and prosecuting criminals.
- 128 SAS (1799) Vol. IX p285 re parish of Cranston in 1792.

- 129** 15 Geo II (1724) c31, section 3 created the offence of felony with transportation for 7 years to assist any person to escape from a constable.
- 130** 24 Geo II (1750) c31, section 14 empowered a constable to enter and search and seize spirituous liquors in any goal, prison, house of correction, workhouse or house of entertainment for the parish poor.
- 131** 42 Geo III (1802) c91 - The Militia (Scotland) Act 1802 section 20 required constables to make a return of men between 18 and 45 years of age; and 52 Geo III (1812) c68 - The Local Militia (Scotland) Act 1812, section 24 required the attendance of constables at local meetings with either 1 month imprisonment or £20 fine for failure to attend, and Section 159 required constables to make annual returns under the Act.
- 132** Acts of Parliament requiring enforcement by constables in Scotland included:  
 1 Geo I c5 - Riot Act 1715  
 5 Geo I c30 - Highway (Scotland) Act 1718  
 4 Geo II c32 - Theft Act 1730  
 21 Geo II c34 - Cattle Theft (Scotland) act 1747  
 32 Geo II c15 - Turnpike Roads (Scotland) Act 1758  
 5 Geo III c49 - Bank Notes (Scotland) Act 1765  
 6 Geo III c53 - Treason Act 1766  
 12 Geo III c45 - Traffic Regulation (Scotland) Act 1772  
 13 Geo III c32 - Stealing of Vegetables Act 1772  
 13 Geo III c54 - Game (Scotland) Act 1772  
 27 Geo III c31 - Suppression of Unlawful Lotteries Act 1786  
 29 Geo III c46 - Destruction of Property (Scotland) Act 1789  
 36 Geo III c7 - Treason Act 1795  
 37 Geo III c123 - Unlawful Oaths Act 1797  
 39 Geo III c79 - Unlawful Societies Act 1799  
 41 Geo III c57 - Bank Notes Forgery Act 1801  
 45 Geo III c89 - Bank Notes (Forgery) Act 1805  
 49 Geo III c14 - Concealment of Birth (Scotland) Act 1809.
- 133** George Tait, Advocate, A Summary Of The Powers & Duties Of A Constable In Scotland (Edinburgh, 1812), p26.
- 134** George Tait (1812) Powers And Duties Of A Constable, pp17-18 and pp27-35 re civil duties in executing warrants of distress and poinding respectively.
- 135** Fencible regiments were raised by individuals usually large landowners and paid for service. Volunteers were civilians part-time soldiers whom the Government supplied with arms and who were drilled twice per week for which they were paid - see Kenneth J Logue, Popular Disturbances In Scotland 1780-1815 (Edinburgh, 1979) Chapter 3; and J Robertson, The Scottish Enlightenment And The Militia Issue (Edinburgh, 1985). Henry Dundas was fearful that the published Militia bill in 1793 for Scotland would be tantamount to arming the Friends of the People, hence it was aborted.
- 136** Whetstone (1981) Scottish County Government, Chapter Four.
- 137** The Royal Edinburgh Volunteer Brigade was established in 1794 to counter the threat of Jacobinism. It became a corp of 3,000 citizens and comprised both artillery and infantry which in 1801 was commanded by Lord Advocate Charles Hope as Lieutenant Colonel - see Regimental Orders of Lieutenant-Colonel Hope dated 18 October 1803 in Cockburn (1856) appendix on pp408-413. See also Scots Magazine (1794) p649 and William Law Mathieson, Church and Reform in Scotland: A History From 1797 - 1843, (Glasgow, 1916) p118.
- 138** Principal Landowners did change over time. Whilst in 1804, the Earl of Lauderdale was High Sheriff and Lord Lieutenant for Edinburghshire by 1831 it was the Duke of Buccleuch - see Edinburgh And Leith Directory 1804-1805 p17 and Edinburgh Almanack 1831 p251.
- 139** The High Sheriff in Scottish shires had no judicial functions.

- 140 37 Geo III (1797) c103. See also Whetsrone (1981) Scottish County Government, p97.
- 141 The 'Massacre of Tranent' on 2 September 1797 is described in Logue (1979) Popular Disturbances, pp85-94.
- 142 42 Geo III (1802) c91, section 20.
- 143 52 Geo III (1812) c68, section 12 specified the requirement of 1,240 privates from Edinburgh and another 1,332 privates from the remainder of the Shire.
- 144 Chambers (1824) Traditions, pp174-178.
- 145 Topham (1776) Letters, p87.
- 146 Cockburn (1856) Memorials, p305.
- 147 Hume (1797) Commentaries, Volume 1 pp10-11.
- 148 See I Donnachie, 'Scottish Criminals and Transportation to Australia, 1786 - 1852', Scottish Economic And Social History, 1984, pp21-38.
- 149 SAS Volume VI - Second letter from William Creech (1792) pp51-52.  
For an account of Creech as a moralist - see John Dywer & Richard B Sher, Sociability And Society In Eighteen Century Scotland, (Edinburgh, 1993), 'Service to the Public: William Creech and Sentiment for Sale by Barbara M Benedict.  
For an account of the city 'black book' about this period - see RA Houston, Social Change In The Age Of Improvement: Edinburgh 1660 - 1760, (Oxford, 1994) p287. It should be noted that the 'black books' only recorded bonds of caution for good behaviour and does not represent all prosecutions undertaken.  
See Chambers (1824) Traditions, pp91-92 for the case of William Brodie in 1788.
- 150 SAS Volume XIII (1793) Parish of Borthwick p638.
- 151 SAS Volume XIV (1793) Parish of Corstorphine p462.
- 152 SAS Volume XVI (1792) Parish of Inveresk p33.
- 153 SAS Volume V (1792) Parish of Currie p328.
- 154 APS vii (1661) c38
- 155 The supervision of Bailies is described by Lord Craig in a civil action raised by James Welsh, Keeper of the Tolbooth of Edinburgh against John Beggie, Carver and Gilder in Edinburgh for jail fees in 1806 - see Information On Jail Fees Edinburgh Tolbooth (1806) Legal Report of Lord Craig pp1-42, Miscellaneous Law Reports, Edinburgh Central Library.
- 156 A Bridewell was a House of Correction - see NSA Volume 1- Edinburghshire (1845) p720; See also Andrew Coyle, Inside: Rethinking Scotland's Prisons, (Edinburgh, 1991), Chapter 1 entitled 'The Thieves Hole' which outlines the development of imprisonment in Scotland prior to 1835.
- 157 Arnot (1816) History, p297 refers to the Old Tolbooth built circa 1403-30 used as jail from 1640.
- 158 Information on Jail Fees Edinburgh Tolbooth (1806) *ibid.* p7 details the regulations contained in the Act of Council dated 17 July 1728. See also Act of Council dated 5 September 1810 - Regulations For The Jail Of Edinburgh And The Conduct Of The Jailer - Edinburgh Central Library
- 159 Information on Jail Fees Edinburgh Tolbooth (1806) *ibid.* p9.
- 160 NSA Volume 1- Edinburghshire (1845) p766 re Tolbooth of Leith.

- 161 NSA Volume 1- Edinburghshire (1845) p301 re three room jail in Musselburgh and p531 re two apartment jail in Dalkeith.
- 162 The 'jougs' were iron collars fixed by chains to buildings in remote villages. NSA (1845) *ibid.* p92 re jougs extant in Ratho and p547 re jougs Currie and Hermiston.
- 163 The petition from James Porteous, for increased allowance for his work in jails, was approved at Town Council meeting on 27 June 1804 - see ETC Records Volume 140 p105.
- 164 ETC Records Volume 142 p12 re payment to Bridewell Commissioners for Edinburgh prisoners in 1804.
- 165 Scots Magazine (1802) pp828-831 re article entitled 'On the Late Robberies!' by an anonymous reader.
- 166 See Scots Magazine (1800) p1 for the announcement of Bonaparte's quest for peace, and Edinburgh Advertiser (No 3993) dated 6 April 1802 for details of the 22 Articles the Treaty of Peace ratified on 25 March 1802.
- 167 Cockburn (1856) Memorials, p70; and also TM Devine & Rosalind Mitchison (editors) People And Society In Scotland, Volume I, 1760 - 1830, (Edinburgh, 1988) , Chapter 13 on Patterns of Protest by W Hamish Fraser.
- 168 Logue (1979) Popular Disturbances, Chapter 5 especially pp133 to 140.
- 169 Henry W Meikle, Scotland And The French Revolution (Glasgow, 1912) Chapter V & VI, and Logue (1979) Popular Disturbances, Chapter 5.
- 170 Logue (1979) Popular Disturbances, Chapter 1 p39 and see Scots Magazine (1800)p359 re Meal riots and pp896-898 for details of the Edinburgh Poor bill which raised £10,000 by stent masters to extend broth kitchens and supply the Poor with food and fuel at reduced prices.

### Chapter Three - THE NEW POLICE AND SYSTEMS OF POLICE 1805 TO 1812

- 1 Hugo Arnot, History of Edinburgh (Edinburgh, 1816) p388
- 2 ETC Records, Vol. 137, p7. The Edinburgh Society Committee comprised Lord Advocate Hope, Henry Davidson, James Buchan and the Reverend Baird. The Reverend George Husband Baird was in fact Principal of Edinburgh University, a young minister appointed in 1793 after he married the daughter of Lord Provost Elder. He was later convenor of the Select Committee of the General Assembly of the Church of Scotland which reported on the State of Education in 1818 - see William Law Matheson, Church And Reform In Scotland, (Glasgow, 1916) p94; and RA Cage, The Scottish Poor Law, (Edinburgh, 1981) p112.
- 3 ETC Records Vol. 137, p352 re letter from Sir William Forbes dated 29th November 1802 considered at Council Meeting on 1st December 1802
- 4 Edinburgh Merchants Minute Book (1802-1813) p41.
- 5 Sir William Forbes of Pitsligo (1739-1806) was a partner in the Edinburgh bank of Forbes, Hunter & Co. founded in 1763 which later became the Union Bank in 1830. He was a founder member of the Society of Antiquaries of Scotland (1780) and the Royal Society of Edinburgh (1783). - See Sir William Forbes of Pitsligo, Bart, Memoirs Of A Banking House (Edinburgh, 1860), 2nd. ed. and Dictionary of National Biography (Edinburgh, 1908), Vol. 7, p412, edited by Stephen and Lee; and Article of the Life of Forbes in Edinburgh review (Volume 10) pp171-199 in 1807.
- 6 Scots Magazine (1803) p218 re outline of the new Police bill;

- ETC Records, Vol. 139, p293 re February 1804 meeting; and L..P. Commissioners, Vol. 5 pp66-68 re May 1804 meeting. See p113 herein for details of the Colquhoun changes.
- 7 ETC Records, Vol. 141, p242 re meeting on 23rd January 1805; Vol. 142, p14 re letter from Forbes in London; and Vol. 142, p30 re meeting on 20th February 1805.
  - 8 Edinburgh Merchants Minute Book (1802-1812) pp41-55.
  - 9 ETC Records, Vol. 142, pp16-20 re meeting on 13 February 1805.
  - 10 45 Geo III (1805) c21 - The 1805 Act for regulating the Police of the City of Edinburgh; Section 76 - A Public Act is one which for evidential purposes in Court proceedings, does not require proof of existence.
  - 11 Prior to the 1805 Act, the villages of Canonmills, Water of Leith, Restalrig, Jock's Lodge and Portobello were not within the territorial jurisdiction of the city.
  - 12 1805 Act, Section 49. Section 57 assimilated the new assessment to be made in respect of lighting and cleansing the Ancient and Extended Royalities.
  - 13 1805 Act, Sections 59 & 60.
  - 14 1805 Act, Section 33. Section 34 also allowed for the recovery of damages in cases of accidental damage to lamps etc.
  - 15 1805 Act, Section 29.
  - 16 1805 Act, Section 46. Such regulations had however to be ratified and confirmed by the Magistrates and Town Council, registered in the City and Sheriff Court Books and published at least once in The Edinburgh Evening Courant, Caledonian Mercury, and Edinburgh Advertiser newspapers.
  - 17 1805 Act, Sections 50 to 54. Regulations and a Table of Fares for Hackney Chairs already existed in the city. Section 50 extended the regulations to an area not exceeding seven miles for coaches, or two miles for sedan chairs, distant from the city boundary.
  - 18 1805 Act, Section 77.
  - 19 1805 Act, Section 2.
  - 20 1805 Act, Section 11.
  - 21 Master of Police was the title used in the Glasgow Police Act of 1800.
  - 22 1805 Act, Section 3.
  - 23 1805 Act, Section 7. Votes were given by written notes, subscribed by the voters, specifying their names, designations and qualifications, and containing the names and designations of the persons voted for.
  - 24 1805 Act, Section 4.
  - 25 1805 Act, Section 35.
  - 26 1805 Act, Sections 8, 9 & 10.
  - 27 1805 Act, Section 12. The written reports of the Residential Commissioners in each Ward are not extant. They are referred to in part within the minutes of the General Commissioners and were submitted for consideration prior to their meetings.
  - 28 1805 Act, Sections 13, 14 & 15.

- 29 The Minute Book for General Commissioners of Police (1805-1812) records meetings of the General Commissioners on the following number of occasions, viz.; 1805-seven, 1806-five, 1807-eight, 1808-six, 1809-four, 1810-four, 1811-four and 1812-twice before a new Act for Police was passed. Three meetings of the General Committee of the General Commissioners are recorded in 1805, but thereafter the practice was to minuted their Reports and deliberations in part, as in the case of the reports from the Residential Commissioners, in the minutes of the General Commissioners.
- 30 1805 Act, Section 11. Meetings were adjourned in February 1809, January 1810 and March 1812 for lack of a quorum.
- 31 E.P. Minute Book (1805-1812) *ibid.* The first General Committee comprised of the Lord Provost, 1st and 2nd Bailie, Dean of Guild, Deacon Convenor, Lord President, Lord Justice Clerk, Lord Chief Baron, Lord Advocate, Dean of the Faculty of Advocates, Deputy keeper of the Signet, Members of Parliament for the city and Member for the shire, Sheriff Depute and seven Residential Commissioners. In subsequent years there was provision on the General Committee for two Residential Commissioners from each Ward (i.e. total of twelve).
- 32 Sub-committees were appointed to decide the salaries of the Superintendant, sergeants and constables; to decide the type of uniform to be worn; to decide the new duties of the City Guard. Again, the reports of sub-committees are not available, but are referred to in the minutes of the General Commissioners.
- 33 1805 Act, Sections 18 & 19 respectively. See Charles Reith, A New Study Of Police History, (Edinburgh, 1956) pp138-139 for suggested military origin of Superintendent title.
- 34 1805 Act, Section 21.
- 35 E.P. Minute Book (1805-1812) *ibid.* p25 & p28. John Tait (1748-1817) married in 1782 but his wife died without issue in 1810. He subsequently died 29th July 1817 - see Register Of The Society Of Writers To H.M. Signet (1983) p315. At the time of his appointment as Police Superintendant he resided at 28 Queen Street, Edinburgh - see The Post Office Annual Directory 1804 and 1806 p202 and p190 respectively.
- 36 At the first meeting of General Commissioners in April 1805, Mr Tait reported that he had gone to London as directed and given the necessary evidence and assistance in carrying through the Police Act - see E.P. Minute Book (1805-1812), *ibid.* p2 & 3.
- 37 E.P. Minute Book (1805-1812) *ibid.* p27 & p69, which does not refer to the amount of salary determined by the Lord Provost, the Lord President, the Lord Justice Clerk and the Lord Advocate. The figure is quoted by Henry Cockburn in Memorials Of His Time (Edinburgh, 1856) p168.
- 38 E.P. Minute Book (1805-1812) *ibid.* p39 & p147.
- 39 1805 Act, Section 22 and E.P. Minute Book (1805-1812) p46.
- 40 1805 Act, Sections 23 & 24.
- 41 1805 Act, Section 25 and Edinburgh Merchants Minute Book (1802-1813) p43. See TM Devine and Rosalind Mitchison (editors) People And Society In Scotland, Volume I, 1760 - 1830, (Edinburgh, 1988), Chapter 12 on the Poor Law by Rosalind Mitchison; and RA Houston, Social Change In The Age Of Enlightenment 1660 - 1760, (Oxford, 1994), Chapter 4 on Marginals.
- 42 1805 Act, Section 17. The Inspectors in each Ward were also declared Billet Masters and all were required to keep books for entering the billets or alternatively those householders against whom a 'locality was levied in lieu of quartering'.
- 43 1805 Act, Section 28.
- 44 1805 Act, Section 32.



- 45 1805 Act, Section 12 which applied the powers of Constable principle to "Officers of Police, Watchmen, and others, for the Ward". Section 16 applied the same principle to Inspectors.
- 46 1805 Act, Section 16.
- 47 1805 Act, Section 32.
- 48 E.P. Minute Book (1805-1812) *ibid.* pp32-37 in respect to their meetings on 10 June 1805.
- 49 E.P. Minute Book (1805-1812) *ibid.* p64.
- 50 E.P. Minute Book (1805-1812) *ibid.* p108 and subsequently approved by the General Commissioners in March 1807 (p118).
- 51 E.P. Minute Book (1805-1812) *ibid.* p133 and the suspension was confirmed at their next meeting on 16 May 1808 (p135).
- 52 1805 Act, Section 37, which also authorised the purchase of "a sufficient number of Watch-boxes, Watch-coats, Watch-poles, or other proper weapons" for the due execution of the Act.
- 53 E.P. Minute Book (1805-1812) *ibid.* pp31-39 and pp69, 130 & 133.
- 54 E.P. Minute Book (1805-1812) *ibid.* pp61 & 72. At their meeting in November 1805 the General Commissioners deferred their decision until December 1805, but the conclusion was not subsequently minuted.
- 55 E.P. Minute Book (1805-1812) *ibid.* pp100-102 which was considered by the General Commissioners at their meeting in December 1806.
- 56 1805 Act, Section 16.
- 57 1805 Act, Section 27.
- 58 E.P. Minute Book (1805-1812) *ibid.* pp63 - 66.
- 59 E.P. Minute Book (1805-1812) *ibid.* p182.
- 60 E.P. Minute Book (1805-1812) *ibid.* pp61, 93, 98 and 104.
- 61 The most regular reason for temporary employing extra men was on the occasion of the King's Birthday, after rioting was experienced on 4 June 1792. At a meeting of the General Commissioners on 27 May 1805, Bailie Coulter was granted permission to engage men under the control of the constables for keeping order on the King's Birthday. He later reported that "His Majesty's Birthday had been celebrated with the greatest harmony and without mischief or disturbance of any kind." - see E.P. Minute Book (1805-1812) *ibid.* pp21 and 40.
- 62 1805 Act, Section 21.
- 63 E.P. Minute Book (1805-1812) *ibid.* p46. The Head Constable received a salary of £50 sterling per annum, whereas the constables received 8 shillings weekly. One of the seven constables was employed as an office keeper and crier in the Police Court at a wage of 6 shillings per week.
- 64 E.P. Minute Book (1805-1812) *ibid.* p155. A petition from the constables for greatcoats was considered and approved by the General Commissioners at their meeting on 22 January 1810.
- 65 1805 Act, Section 12. See Scots Magazine (1807) p28 for article by 'M' on Parallel between the Edinburgh and Glasgow System of Police.

- 66 E.P. Minute Book (1805-1812) *ibid.* pp14 & 26 in respect to discussions on 27 May and 10 June 1805.
- 67 E.P. Minute Book (1805-1812) *ibid.* pp26 , 27, 47 & 48.
- 68 E.P. Minute Book (1805-1812) *ibid.* pp61 & 68.
- 69 E.P. Minute Book (1805-1812) *ibid.* pp73 & 104.
- 70 E.P. Minute Book (1805-1812) *ibid.* pp27, 30 ,47 & 68 to 86.
- 71 E.P. Minute Book (1805-1812)*ibid.* pp8 & 68. At the 27th May 1805 meeting of the General Commissioners a letter dated 16 May 1805 from Robert Nimmo, Clerk of Police in Glasgow describing the uniforms was approved and minuted (p22).
- 72 E.P. Minute Book (1805-1812) *ibid.* e.g. in 1806/7 granted to Messrs Turnbull & Carfrae for clothing at £3-10-0d per suit (p83); in 1807/8 granted to Alex Allan & Co. for clothing at £2-19-0d per suit and Smiths & Stevenson for oil at 1/6d per pint. (p120); in 1808/9 to the same suppliers for suits at the same price and oil at 1/4d per pint (pp135 & 146) and in 1809/10 granted to Adam Brooks & Co. for clothing at £2-18-0d per suit (p159).
- 73 E.P. Minute Book (1805-1812) *ibid.* pp26 & 27.
- 74 1805 Act, Section 68. The other half of the fines collected, or as much thereof as was necessary was paid over to the treasurer for the Bridewell for the purpose of aliment and clothing for the persons committed there. Any surplus could be applied in any way or manner by General Commissioners towards suppressing vice and promoting industry within the city.
- 75 1805 Act, Section 47.
- 76 E.P. Minute Book (1805-1812) *ibid.* pp8 & 12. Francis Metcalf had been in the City Guard since his appointment as a Lieutenant in October 1803 - See ETC Records Vol. 139 p67.
- 77 Edinburgh Merchants Minute Book 1802-1813 pp45-55 and ETC Records Vol. 142 p82 & 83.
- 78 1805 Act, Section 48.
- 79 Edinburgh Advertiser (No. 4314) dated 3rd May 1805 and E.P. Minute Book (1805-1812) *ibid.* p8.
- 80 E.P. Minute Book (1805-1812) *ibid.* p20. The "Orders for Patrol" and details of the three divisional patrols are found at p23.
- 81 E.P. Minute Book (1805-1812) *ibid.* p20 & p51.
- 82 E.P. Minute Book (1805-1812) *ibid.* pp32-37.
- 83 E.P. Minute Book (1805-1812) *ibid.* p25 & p28. The Principle Clerk subsequently appointed by the Superintendant in not minuted.
- 84 1805 Act, Section 35. The free rent was defined as four-fifths of the real rent at which the premises would be worth if let, the remaining one-fifth being allowed for repairs and other necessary expenditure. Although there were statutory exemptions to this provision, the General Commissioners later decided to apply the exemption to "places of worship" - See E.P. Minute Book (1805-1812) *ibid.* p65 & 66.
- 85 1805 Act, Section 38. In fact, the General Commissioners imposed this additional 1% assessment for the year 1805-1806, but only a ★% additional assessment for the year 1806-1807. No assessment was required in the third year 1807-1808 which was permitted under the 1805 Act. - See E.P. Minute Book (1805-1812) *ibid.* pp65 & 66 and p99 respectively.

- 86 1805 Act, Sections 57 and 60. Section 58 allowed the Commissioners for lighting and cleansing to dispose of the dung or fuilzie within the Wards by public auction and apply the money to lighting and cleansing functions .
- 87 1805 Act, Section 36. The General Commissioners appointed George Haig as principle surveyor in May 1805 at a fee of £30 per annum. He was allowed two assistant surveyors at a fee of £10 per annum. When Haig died in 1810, George Black, Inspector of Taxes was appointed surveyor at a fee of £60 per annum and allowed two assistants each with a fee of £60 per annum also, - see E.P. Minute Book (1805-1812) *ibid.* p15, p157 and p165.
- 88 E.P. Minute Book (1805-1812) *ibid.* p8 & p12. A Peter Hill is mentioned as being the stationer and a John Brown as the printer.
- 89 E.P. Minute Book (1805-1812) *ibid.* p6, p15 & p97. McVicar was already the Collector of other city taxes at that time and may have been the natural choice for the position.
- 90 1805 Act, Section 39. Any surplus money in the account however vested in the General Commissioners by virtue of Section 40.
- 91 1805 Act, Sections 42 to 45. Copies of the annual account were delivered to each General Commissioner, the Superintendant, the Inspectors in each Ward and also the city clerk and Sheriff-clerk of the county for public inspection.
- 92 E.P. Minute Book(1805-1812)*ibid.* p88, p90, p96, p97, p99 & p100. Claud Russell received a 25 guinea fee for his auditing and drafting a statement of account for publishing.
- 93 E.P. Minute Book (1805-1812) *ibid.* p125, p126 & p130.
- 94 E.P. Minute Book (1805-1812) *ibid.* p131 re appointment of Gloag; p134 re May 1808 meeting; p138 re November 1808 meeting; p140 re January 1809 meeting; p146 re May 1809 meeting; p149 re November 1809 meeting; and p153 re January 1810 meeting.
- 95 E.P. Minute Book (1805-1812) *ibid.* pp160-165 and p182 re Petition from Baxter in November 1811.
- 96 Edinburgh Advertiser (No. 4335) dated 16th July 1805 for the various speeches on 15th July 1805; and E.P. Minute Book (1805-1812) *ibid.* p59 for investiture ceremony. Also Cockburn (1856) Memorials, p168 described the Superintendant's dress in the Police Court as being "a black gown garnished with knots of gold thread."
- 97 E.P. Minute Book (1805-1812) *ibid.* p43.
- 98 E.P. Minute Book (1805-1812) *ibid.* p72, p73 & p93. In December 1805 a report from the Residential Commissioners in Ward 1 recommending that the City Guard be abolished or reduced further, was rejected by the General Committee who suggested that they would just have to be rendered as useful as possible to the police. Informations was the term used for Complaints about crime or indeed intelligence received from the public.
- 99 E.P. Minute Book (1805-1812) *ibid.* p146.
- 100 E.P. Minute Book (1805-1812) *ibid.* p71 & p73. The estimates for watchboxes from John Brown of Abbeyhill were accepted.
- 101 E.P. Minute Book (1805-1812) *ibid.* p129.
- 102 Edinburgh Advertisers (No. 4336) dated 19 July 1805 and (No. 4338) dated 26 July 1805 under the heading 'Caution to Travellers' detailed the new Cleansing regulations; and (No. 4339) dated 30 July 1805 detailed the Broker regulations.
- 103 11 Geo III (1770) c53 made J.P.s and Commissioners of Supply Trustees for maintenance of roads.

- 104 11 Geo III (1772) c45 was the first Road Traffic Regulations aimed at public safety, and they applied within 6 miles of Edinburgh, 4 miles of Glasgow or within 2 miles of any other city in Scotland. Edinburgh Advertiser (No. 4340) dated 2 August 1805 detailed the new Traffic Regulations in Edinburgh.
- 105 ETC Records Vol. 144 pp111-115 for petition dated 19 August 1805 and p109 for reply by Town Council dated 11 September 1805.
- 106 ETC Records Vol. 115 p 411 re new title of 'High Constable' approved by the Town Council on 4 April.
- 107 L.P. Commissioners, Vol. 4 pp342-345 details the letter from Sir William Forbes regarding the proposed new system of police.
- 108 L.P. Commissioners, Vol. 4 pp370-371 re meeting 24 February 1803 which discussed a new Police system of police for South Leith.
- 109 L.P. Commissioners, Vol. 5 pp6, 18 & 39 re meetings in March and December 1803 to discuss the Edinburgh Police bill.
- 110 L.P. Commissioners, Vol. 5 pp66-68 re minute of Sir William Forbes dated 30 May 1804.
- 111 Patrick Colquhoun (1745-1820) was a distinguished Scottish merchant who after visiting Virginia became a tobacco baron in Glasgow. He was Lord Provost there in 1782 and had founded the Glasgow Chamber of Commerce in 1783. After moving to London in 1789, he became a Police Magistrate and wrote many reforming pamphlets, including Police Of The Metropolis (London, 1795). See ETC Records Vol. 135 p261 for 'Freeman of Edinburgh' honour and L. Radzinowicz, A History Of English Criminal Law (London, 1956) Vol. 3 Chapter 9 on the contribution of Colquhoun to Police reform.
- 112 Forbes (1860) Memoirs, pp27-28, from a manuscript which was closed in May 1803. The book describes the extensive network between merchants and bankers in Glasgow, Edinburgh and London and their contacts in Europe especially France prior to the Revolution. See also George Eyre-Todd, History Of Glasgow (Glasgow, 1934) Vol.3, Chapter 36 for contacts between Colquhoun and Forbes.
- 113 L.P. Commissioners, Vol. 5 p168 when Bailie Wood reported cost of the Act was £737-10-0 including £377-11-6 to James Chalmers, solicitors in London.
- 114 L.P. Commissioners, Vol. 5 pp136-139 for meeting 17 January 1806, pp141-147 for meetings on 4 and 8 April 1806 and pp149-153 for meetings on 6 and 8 May 1806.
- 115 L.P. Commissioners, Vol. 5 pp156-157 re voting meeting on 16 May 1806.
- 116 46 Geo III (1806) c16 - The L.P. Act 1806. Section 59 deemed the Act public without limit of time.
- 117 1806 Act, Section 1.
- 118 1806 Act, Section 2. Also see L.P. Commissioners, Vol. 5 pp163 & 168 & 176 & 188 & 199 re meetings on 14 and 28 July, 13 October, 15 and 20 December 1806. The Leith Commissioners held 5 meetings in 1806; 9 meetings in 1807; 7 meetings in 1808; 12 meetings in 1809; 8 meetings in 1810; 9 meetings in 1811; and 8 meetings in 1812.
- 119 L.P. Commissioners Vol. 5 p200 for Wards and Committee structure established in January 1807.
- 120 1806 Act, Section 10. Pavements had to be 2' to 6' in breadth. Sections 11 and 12 empowered Commissioners to recover in expense of remedying any default or repair.
- 121 1806 Act, Section 34. Section 35 allowed Commissioners to recover the expense of remedying any default or repair.

- 122** 1806 Act, Sections 13, 16, 36, 37 39 and 40 respectively. Fines for the offences ranged from 5/- to 20/-.
- 123** 1806 Act, Section 13 on Cleansing and Section 28 on Lighting provisions.
- 124** 1806 Act, Sections 14, 30 and 33 respectively.
- 125** 1806 Act, Section 41. Section 42 allowed appeals against the assessment to a Committee of Commissioners.
- 126** L.P. Commissioners, Vol. 6 pp178-185 re detailed accounts for 1810/11.
- 127** 1806 Act, Section 6 re appointment of Intendant and clerk at pleasure, and Section 7 re appointment of Watchmen. Section 8 enabled the provision of proper watchhouses, watchboxes and other places of security wherein to lodge offenders, until taken before a Magistrate for examination.
- 128** 1806 Act, Section 9 re duties of Intendant and watchmen. The choice of the title Intendant of Police Leith is curious and not minuted. It may have been deemed more appropriate in relation to the title of Superintendent, for Leith was under the legal superiority of Edinburgh.
- 129** 1806 Act, Section 55 re summary procedure for prosecution before ordinary Bailies.
- 130** L.P. Commissioners, Vol. 5 p182 re accounts reviewed on 13 October 1806 and p220 re petition of John Ross.
- 131** L.P. Commissioners, Vol. 5 pp217-219 re 54 applicants and short list of 6 for position of Intendant. John Brooks, Inspector of Ward 6 in Edinburgh was on of the unsuccessful short listed candidates. See pp226-227 *ibid.* for vote for John Donaldson.
- 132** L.P. Commissioners, Vol. 5 p233, p235 and p250 for Intendant reports.
- 133** L.P. Commissioners, Vol. 5 p280 re untimely death of Intendant John Donaldson which is not explained. See p284 *ibid.* for appointment of Intendant Denovan for 6 months at £50 salary.
- 134** L.P. Commissioners, Vol. 5 pp286-294 re meeting 11 July 1808 which discussed need for water pipes in Leith Docks.
- 135** L.P. Commissioners, Vol. 5 p299 re meeting 10 October 1808 appointing Committee to examine need for watchmen and Vol. 6 p239 re meeting 12 April 1813 which decided watchmen impracticable due to lack of funds.
- 136** The State of Accounts considered by Commissioners in October each year showed income and expenditure - invariably in the region of £5 for uniforms each year and particular payments made for enforcing the terms of the 1806 Act.
- 137** L.P. Commissioners, Vol. 6 p149 re meeting of 14 January 1811 requesting Intendant to keep Court Book and approval for Assistant Intendant, and p199 for appointment of Robert Craig as Assistant Intendant.
- 138** Edinburgh Police Court Book (1805-1807) which measures 19"x14"x2" is a hand-written account of all cases presented and dealt by the Superintendent between 17 July 1805 and 30 June 1807. Each case takes up a line on two pages and contains details under the following headings, viz.  
 Complainer - usually the name of the Ward Inspector acting as Procurator Fiscal and presenting the case in the public interest. Occasionally the name and address of a private complainer is also conjoined.  
 Defender(s) - the name and address of the person(s) accused.  
 Offence (s) - a description of the crime or offence alleged .  
 Sentence - whether discerned, assoilzied or dismissed.  
 Thereafter separate columns existed for the Tolbooth, Bridewell, Fine, Damages & Expenses.

The cases are consecutively numbered from 1 to 2,900 ending on 22 July 1806. For some unknown reason the next page, still dated 22 July 1806 starts with case number 44 and continues consecutively until case number 1902 on 30 June 1807, which is the last entry in the book. Damage has been inflicted over the years, for the page detailing cases 119 to 322 and 768 to 833 inclusive (i.e. 281 cases) are missing. The book which was recovered in Lothian and Borders Police headquarters is now retained at Edinburgh City Archives. Records of the Lord Advocates Department for serious crime throughout Scotland before 1812 shows only 18 prosecutions in 1801, 3 in 1809 and 6 in 1881 - see SRO AD14.

- 139 Edinburgh Advertisers (No. 4343) dated 13 August 1805 (No. 4347) dated 27 August 1805.
- 140 Edinburgh Advertiser (No. 4962) dated 19 July 1811.
- 141 E.P. Minute Book (1805-1812) *ibid.* pp110-118.
- 142 A comprehensive account of the Begbie murder and robbery is contained in Robert Chambers, Traditions Of Edinburgh (Edinburgh, 1824) pp280-285, and also Cockburn (1856) Memorials, pp194-195. The theory of Intendant Denovan of Leith is contained in his account of The Life And Trial Of James Mackoull (Edinburgh, 1822).
- 143 Edinburgh Advertiser (No. 4687) dated 29 November 1808.
- 144 Edinburgh Advertiser s(No. 4787) dated 14 November 1809 p311, and (No. 4808) dated 26 January 1810 p62 re High Court trial. McQueen and Bailly were fortunate to be sentenced to 14 years transportation.
- 145 Edinburgh Advertisers (No. 4905) dated 4 January 1811 p15 for High Court trial of Alexander Cahill, surgeon, for the murder of Captain Rutherford by 'pistol duel' in Edinburgh; (No. 4886) dated 26 October 1810 p270 for shooting in North Bridge; and (No. 4939) dated 30 April 1811 p279 and (No. 4940) dated 3 May 1811 p287 re robbery and murder of Malcolm Fraser, a private in Aberdeenshire Militia.
- 146 Edinburgh Advertisers (No. 4976) dated 6 September 1811 p159; and (No. 4988) dated 18 October 1811 p263.
- 147 Edinburgh Advertisers (No. 4961) dated 16 July 1811 p40, (No. 4962) dated 19 July 1811 p43, (No. 4963) dated 23 July 1811 p55. See Scots Magazine (1820) p77 and (1821) p82 for account of MacKoull trial. See also Denovan (1822) Life And Trial, and account by Douglas Grant, The Thin Blue Line - History Of The City Of Glasgow Police (Glasgow, 1973) pp18-21.
- 148 Edinburgh Advertisers (No. 4593) dated 5 January 1808 p10 and (No. 4917) dated 10 February 1811 p102 respectively.
- 149 Edinburgh Advertiser (No. 44707) dated 7 February 1809 p87.
- 150 Edinburgh Advertiser (No. 4759) dated 8 August 1809 p86.
- 151 Edinburgh Advertiser (No. 4997) dated 19 November 1811 p327 re arrest of John Ralph for Intendant Denovan. Ralph had a loaded pistol under his pillow when arrested in Gray's Inn Lane, London.
- 152 Edinburgh Advertiser (No. 4925) dated 1 January 1808 p 2 re reward of 5 guineas placed by John Gullan, Keeper of Canongate Jail.
- 153 Edinburgh Advertisers (No. 4925) dated 12 March 1811 p166; (No. 4935) dated 16 April 1811 p242; (No. 4939) dated 30 April 1811 p279; (No. 4946) dated 26 May 1811 p334; and (No. 4961) dated 16 July 1811 p40 re French prisoners of war.
- 154 Edinburgh Merchants Minute Book (1802-1812) pp97-100 for meeting on 20 October 1806.

- 155 See published Report of the Committee of Commissioners of Police dated 6 February 1807- Edinburgh Central Library. See Edinburgh Advertisers (No. 4502) dated 20 february 1807 p114 and (No. 4512) dated 27 March 1807 p183 for resolution of Merchant Committee and the reply by the General Commissioners, respectively.
- 156 A 29 page letter to the Rt. Hon. Henry Erskine, Lord Advocate of Scotland, relative to the Act of Parliament for legalising the Police of Edinburgh, dated 25 December 1806. A second 15 page letter dated 29 January 1807 was also published by John Moir, printers, but being subscribed 'Civis' the author is unknown - both Edinburgh Central Library.  
See also John Dwyer, Virtuous Discourse: Sensibility And Community In Late Eighteen Century Scotland, (Edinburgh, 1987) p168 on the contribution of the moralist Civis to the Caledonian Mercury dated 19 April 1779.
- 157 E.P. Minute Book (1805-1812) *ibid.* p106.
- 158 E.P. Minute Book (1805-1812) *ibid.* pp114-116. See Scots Magazine (1807) p891 re details of proposed new Police bill.
- 159 Series of published letters by George Thompson dated April, May and June 1807 concerning the decision of Superintendent Tait to sanction the Police making domiciliary visits to private homes - Edinburgh Central Library.
- 160 A 26 page published letter from an unknown Burgess in support of the complaint made by John Wightman about the actions of the City Guard on 4 June 1807 - Edinburgh Central Library.
- 161 E.P. Minute Book (1805-1812) *ibid.* p139 for appointment of Committee comprising the Lord Provost, 1st and 2nd Bailies, Lord President and Lord Justice Clerk, Lord Advocate, Sheriff Depute and 12 other General Commissioners at 21 November 1808 meeting; and pp142-3 for views of Committee delivered at 23 January 1809 meeting resulting in the appointment of a Sub Committee comprising the Lord Provost, Sheriff Depute and 5 others to draft a new Police bill. See also Scots Magazine (1807) p891 for details of proposed new Police bill.
- 162 E.P. Minute Book (1805-1812) *ibid.* p144 re meeting 15 May 1809 and p154 re meeting 22 January 1810.
- 163 Scots Magazine (1812) p74, and Edinburgh Advertiser (No. 5010) dated 3 January 1812 pp1 & 7. See also Kenneth J Logue, Popular Disturbances In Scotland 1780-1815 (Edinburgh, 1979) pp 187-190 for a general account of the 'Tron Riot'.
- 164 E.P. Minute Book (1812-1819) pp 25, 32, 45 and 91.
- 165 Scots Magazine (1812) pp 169-174 summarises the evidence against Skelton. See also HMA v John Skelton, - SRO JC 26/357 2 March 1812.
- 166 Scots Magazine (1812) pp 249-260 summarises the evidence against MacDonald, McIntosh and Sutherland. Edinburgh Advertiser (No. 5012) dated 7 January 1812 p23 re arrest in Glasgow. See also HMA v Hugh MacDonald and others, SRO JC26/358, 21 March 1812.
- 167 Scots Magazine (1812) pp 394-396 for account of executions.
- 168 Scots Magazine (1812) p561. See also Records of the Lords Advocates Department 1801-1819 SRO AD14 12/01 to 12/66 and also HMA v John Darling and others, SRO JC 26/357, 6 July 1812.
- 169 E.P. Minute Book (1805-1812) p185 re resolution at meeting 27 January 1812.
- 170 See 28 page Report of the Committee appointed for obtaining a more efficient system of Police (1812) - Edinburgh Central Library. See also Edinburgh Merchants Minute Book (1812-1814) p280 re meeting 1 April 1812.

## Chapter Four - THE NEW POLICE AND SYSTEMS OF POLICE 1812 TO 1822

- 1      Dispatches from the Peninsular War (1808 to 1814) and the Anglo-American War (1812 to 1814) regularly featured in newspapers along with the campaigns against Napoleon Bonaparte - see for example Scots Magazine (1815) p405 for report on battle of Waterloo in June 1815.  
See William Law Mathieson, Church And Reform In Scotland: A History From 1797 To 1843, (Glasgow, 1916), Chapter III on War and Repression 1797 - 1820, p141; TM Devine & Rosalind Mitchison (editors), People And Society In Scotland, Volume 1, 1760 - 1830, (Edinburgh, 1988), Chapter 13 on patterns of protest by W Hamnish Fraser; and also Peter B Ellis & Seamas Mac a'Ghobhainn, The Scottish Insurrection Of 1820, (London, 1970), for background to the Radical War in the west of Scotland.
- 2      Scots Magazine (1817) p384 for details of second wet dock in Leith which commenced in 1811 and doubled the shipping capacity of the port.
- 3      The Union Canal 31 miles long between Edinburgh and Falkirk was first proposed in 1798. After Parliamentary approval in April 1815, Edinburgh Town Council opened the fund to raise public subscription in August 1815. The canal employed great numbers of labouring Irish between 1818 and 1822 and cost almost £400,000 - see Scots Magazines (1815) p248 & p566 and (1822) p125.
- 4      53 Geo III c re new Jail at Calton, and Scots Magazine (1813) p590 and p393.
- 5      Scots Magazines (1817) p314 re Edinburgh Gas Company; (1818) p374 re gas lamps in South Bridge; and Scots Magazine (1822) p269 re gas lamps in Princes Street. One gas lamp was reckoned to be as bright as five oil lamps and replacements were made on that ratio.
- 6      Scots Magazine (1815) pp1812-1815 re Music Festival arrangements.
- 7      Scots Magazine (1816) p796 re Races moved to Musselburgh.
- 8      See Henry Cockburn, Memorials Of His Time, (Edinburgh, 1856) p265 re importance of Scotsman newspaper.
- 9      Scots Magazine (1817) p74-76; (1818) pp185 & 574 and (1819) p276 re the visits of grand Dukes Nicholas and Michael of Russia, Archduke Maximilian of Austria and Prince Leopold of Belgium respectively.
- 10     Edinburgh Advertiser (No 5016) dated 24 January 1812 p55; and (No 5018) dated 31 January 1812, p75.
- 11     52 Geo III (1812) c172, Section 1 which consolidated the earlier Acts of 11 Geo III (1771) c36; 12 Geo (1772) c150; and 45 Geo III (1805) c21.
- 12     1812 Act, Section 3. Section 4 authorised the General Commissioners to alter, vary , add to or diminish the bounds of each Ward in such a manner as the state of the population or other circumstances appeared from time to time to require.
- 13     1812 Act, Sections 73 to 77 and Section 82 respectively.
- 14     1812 Act, Sections 67 and 71 which imposed a maximum fine of £2 for each offence and also allowed 'one moiety' (i.e. half) of the fine to be given to the informer.
- 15     1812 Act, Section 69. The Act 44 Geo III (1804) c55 regulated ale licences.
- 16     1812 Act, Section 70. The Act 40 Geo III (1800) c99 regulated pawnbrokers only.



- 17 1812 Act, Sections 60 and 63.
- 18 1812 Act, sections 65 and 66.
- 19 1812 Act, Sections 61 and 62 which authorised enforcement by the decrees of the Dean of Guild and the recovery of the expense involved.
- 20 1812 Act, Section 64 which provided a fine not exceeding 20/- for each offence.
- 21 1812 Act, Section 99 and 100 respectively.
- 22 1812 Act, Section 27. In respect to any debt not discharged by the various district Commissioners, the new General Commissioners were authorised to impose in the respective districts an additional assessment not exceeding one half per centum of the yearly rent and keep separate accounts for this purpose.
- 23 1812 Act, Sections 5 and 7. In the event of the Residential Commissioners neglecting or refusing to appoint a General Commissioner from their Ward, or not being able to agree within ten days as to the person to be so appointed, then it was lawful for the existing General Commissioners to intervene and nominate one instead.
- 24 1812 Act, Sections 26 and 39.
- 25 1812 Act, Section 82 which declared that such regulations and bye-laws had to be published at least once in the Edinburgh Evening Courant, Caledonian Mercury and Edinburgh Advertiser, and that a maximum fine of 20/- could be imposed for any contravention thereof.
- 26 1812 Act, Sections 48 and 49.
- 27 1812 Act, Section 6.
- 28 1812 Act, Section 8. Section 9 did allow immediate re-election as a Residential Commissioner, but placement to the bottom of the list.
- 29 1812 Act, Section 10.
- 30 1812 Act, Section 11.
- 31 1812 Act, Sections 12, 13 and 14. Although not a statutory requirement, it was standard practise to advertise the time and place of elections a few days beforehand in the local Edinburgh newspapers.
- 32 1812 Act, Sections 15, 16 and 17.
- 33 E.P. Minute Book (1812-1819) p340.
- 34 1812 Act, Section 56 but only in the numbers fixed by the General Commissioners.
- 35 E.P. Minute Book (1812-1819) pp205-207 and p254. It was the practice of the General Commissioners to appoint a Committee to examine these half yearly reports - see p201, *ibid*.
- 36 E.P. Minute Book (1812-1819) p37 re meeting 18 January 1813.
- 37 E.P. Minute Book (1812-1819) pp225 & 226. The matter was referred to a Committee but the outcome of its deliberations are not recorded.
- 38 E.P. Minute Book (1812-1819) pp412-415.
- 39 1812 Act, Sections 19 to 25 inclusive.
- 40 1812 Act, Sections 41 and 42.

- 41 E.P. Minute Books for the periods (1812-1819), (1819-1821), and (1821-1823), records the following number of meetings of the General Commissioners, Viz.; 1812 - fifteen, 1813 - fifteen, 1814 - seven, 1815 - nine, 1816 - twelve, 1817 - fifteen, 1818 - nine, 1819 - eleven 1820 - seventeen, 1821 before the commence of the new Police Act in 1822.
- 42 E.P. Minute Book (1812-1819) pp4, 6 & 20 respectively.
- 43 E.P. Minute Book (1812-1819) p5 re finance committee comprising the Lord Provost, Sheriff Depute and seven Commissioners, p7 re dung committee and p9 re lighting committee.
- 44 E.P. Minute Book (1812-1819) p71 re meeting 16 November 1813 and pp77-78 re meeting 3 January 1814.
- 45 Details of the standing committees appointed are shown in the E.P. Minute Book (1812 - 1819), p115 re meeting 28 July 1814, p154 re meeting 24 July 1815, p200 re meeting 8 July 1816, p281 re meeting 20 July 1817, p339 re meeting 27 July 1818, p407 re meeting 13 August 1819, and in E.P. Minute Book (1819 - 1821) pp193 -195 re meeting 8 August 1820. On average 8 to 12 General Commissioners were appointed to each standing committee after the results of the July elections were declared, and each had either a quorum of 5 if more than ten members, or a quorum of 3 if less than ten members.
- 46 Scots Magazine (1812) p562.
- 47 1812 Act, Section 45 and E.P. Minute Book (1812 - 1819) p32 re compensation authorisation at meeting 27 October 1812, p390 re meeting 5 April 1819 records that the Lord Provost delivered to the meeting 'the Gold Chain worn by the former Judge of Police' the inference being that Tait was deceased. The gold chain was placed in the custody of the Clerk John Murray and when he was forced to resign from office in 1820, he handed it over to the new Clerk named Alexander Callender, per E.P. Minute Book (1819-1821) p169.
- 48 Cockburn (1856) Memorials, p169.
- 49 1812 Act, Section 90.
- 50 1812 Act, Section 53 and Section 56 respectively.
- 51 E.P. Minute Book (1812-1819), pp4 & 37 re Memorial from Inspector John Brooks in January 1813 when it was agreed that he should receive 2 guineas per week for his acting as Superintendant.
- 52 E.P. Minute Book (1812-1819), pp10-12. The motion was unsuccessfully opposed by Residential Commissioner Inglis who argued that a salary of £500 equal to that of the Judge under the former Act was contrary to the spirit of the law.
- 53 E.P. Minute Book (1812-1819) pp14 & 15. The salaries of the Superintendant and Lieutenants were paid quarterly.
- 54 Douglas Grant, The Thin Blue Line - A History Of The City Of Glasgow Police (Glasgow, 1973) p23.
- 55 E.P. Minute Book (1812-1819) pp17 & 18.
- 56 E.P. Minute Book (1812-1819) p33.
- 57 E.P. Minute Book (1812-1819) p352.
- 58 E.P. Minute Book (1819-1821) p10.
- 59 E.P. Minute Book (1819-1821) pp74-81 re meeting 9 May 1820 and p84 re meeting 30 June 1820.

- 60 E.P. Minute Book (1819-1821) pp211-213 re meeting 2 October 1820.
- 61 E.P. Minute Book (1819-1821) pp220-224 re 'Reasons for Protest' document.
- 62 E.P. Minute Book (1819-1821) pp230-231.
- 63 E.P. Minute Book (1819-1821) pp274-281.
- 64 1812 Act, Sections 49 to 52. Section 72 which imposed a maximum fine of £2 on police officers 'enticed' from duty with the provision that 'one moiety' (i.e. half the fine imposed) could be adjudged to the informer. The April 1814 and April 1820 Regulations on the Police are not extant and were not published in newspapers - see E.P. Minute Book (1819-1821) p52 for reference to their issue.
- 65 1812 Act, Sections 54, 67 and 78 respectively.
- 66 E.P. Minute Book (1812-1819) pp15-17.
- 67 E.P. Minute Book (1812-1819) p53 re Annual Reporting 1813 and p63 re meeting 3 August 1813 & p66 re meeting 25 October 1813.
- 68 E.P. Minute Book (1812-1819) p79.
- 69 E.P. Minute Book (1812-1819) p165.
- 70 E.P. Minute Book (1812-1819) p289 for year 1816-17, p351 for year 1817-1818 and E.P. Minute Book (1819-1821) p7 for year 1818-1819.  
Devine & Mitchison (1988) People And Society, Chapter 10 on The Standard of Living of the Working Class.
- 71 E.P. Minute Book (1819-1821) pp4 & 44 for Pay lists and Pay books respectively.
- 72 SRO AD14 - 15/13.
- 73 1812 Act, Section 51 and E.P. Minute Book (1819-1821) p145.
- 74 1812 Act, Section 39. Section 40 provided that on the insolvency of Collectors or Clerks, if debts due could not be fully met from their sureties, any deficiency could be raised by assessments on the Wards .
- 75 E.P. Minute Book (1812-1819) pp4 & 6. P33 reveals that the Principal Clerk had to lodge £100 security (i.e. surety is the equivalent English legal term).
- 76 E.P. Minute Book (1812-1819) p80 refers to 311 Petitions for Relief over 1812-1813 and p136 refers to no fewer than 300 over 1814-1815.
- 77 E.P. Minute Book (1812-1819) pp298 & 299 for memorial detailed at meeting on 8 July 1817 also p299 & p300 for report of committee considered at a meeting on 6 October 1817.
- 78 E.P. Minute Book (1812-1819) p417 for meeting on 4 October 1819 and p420 for motion of Peter Brown who chaired the special committee of the 'brooms'; See also E.P. Minute Book (1819-1821) pp15-31 for report by the committee on the brooms considered at the meeting on 2 December 1819 and pp32-38 for details of the letter from Murray.
- 79 1812 Act, Section 26 Section 31 provided that proprietors and liferenters were not liable for the rates of their tenants. See also 48 Geo III c55 - The House Tax Act, 1808.
- 80 E.P. Minute Book (1812-1819) p52 for assessors allowance 1812-1813 & p119 for Memorial seeking an increase in October 1814.
- 81 1812 Act, Sections 27, 28 and 29. Failure to pay the rates within ten days after being due at Martinmas, allowed the Collector to apply to the Magistrates or to the Sheriff Depute, for a

Warrant to enter the premises of the debtor and seize any goods and effects; and if payment was not made within ten days of such seizure, the goods and effects could be sold by public auction at the Market cross of Edinburgh to effect payment of the rates due plus costs of the procedure, with any surplus being returned to the owner.

- 82 1812 Act, Section 30 which provided one half of the annual assessment if the premises were occupied for any period less than six months, and the whole annual assessment if occupied longer than six weeks.
- 83 1812 Act, Sections 31 to 35.
- 84 E.P. Minute Book (1812-1819) pp3, 8, 51, 104-105 & 112-113 re arrangements for Collector Paul Baxter.
- 85 E.P. Minute Book (1812-1819) pp222-3 & pp226-230.
- 86 E.P. Minute Book (1819-1821) p99 on origin of 7% non-payment of allowance.
- 87 E.P. Minute Book (1812-1819) p269 re 'old' debt, p215 re claim in August 1816 by the legal Representative of Neil McVicar, and E.P. Minute Book (1819-1821) p5 for Finance Committee Report December 1819.
- 88 E.P. Minute Book (1812-1819) pp383-385 re origins of new debt.
- 89 1812 Act, Section 58. Section 59 continued the offence of breaking lamps subject to a £10 fine.
- 90 E. P. Minute Book (1812-1819) pp51 & 52 for update on lighting 1812-1813 and p343 for first Regulations for Lighting issued October 1818.
- 91 E. P. Minute Book (1812-1819) pp 291,300, 307 & 313 for introduction of gas lighting in city, and p169 for update on lighting.
- 92 1812 Act, Sections 55-57 on cleansing responsibilities.
- 93 The first official employed to manage Cleansing services was a Mr John Disher after a breaches of contract were experienced with the tacksman from January 1817 onwards. See E.P. Minute Book (1812-1819) pp 232-238; and E. P. Minute Book (1819-1821) p3.
- 94 E. P. Minute Book (1812-1819) p26; and E. P. Minute Book (1819-1821) p8. Four 'privies' were also employed at 7/- per week to maintain public conveniences.
- 95 E. P. Minute Book (1819-1821) pp15-31 for Report from Committee on the Brooms dated December 1819 which uncovered the fraudulent ordering of brooms. p23 outlines the deployment and supervision of 'scavengers' attached to each watchhouse.
- 96 E. P. Minute Book (1812-1819) p238 for revenues from selling 'dung'.
- 97 E. P. Minute Book (1819-1821) p375 for appointment of Inspector Logan and pp378 & 391, along with E. P. Minute Book (1821-1823) pp32, 44 & 53 re continuing dispute about his appointment.
- 98 E.P. Minute Book (1812-1819) pp2 & 17.
- 99 E.P. Minute Book (1812-1819) pp9 & 39.
- 100 E.P. Minute Book (1812-1819) pp18 & 25 for proposed watchhouses near North Bridge and Chapel of Ease; p225 for proposed watchhouse near foot of Leith Walk; p35 for new watchhouses in West Port and foot of Calton Hill, p42 for continuing watchhouses in George Street and Canongate. E.P. Minute Book (1819-1821) p23 details rents for five of the watchhouses including that at Park Place.
- 101 E.P. Minute Book (1812-1819) pp380 & 412.

- 102 E.P. Minute Book (1812-1819) p20 for August 1812 meeting p28 for description of watchhouses, and p30 for Committee for cast iron watchboxes Although the total number of additional watchboxes is not detailed, p52 shows that the expenditure over 1812-1813 for new globe lamps, lamp posts and watchboxes amounted to £1,275-5-1 and therefor it is a fair surmise that a considerable number were added to the streets of the city after 1812.
- 103 E.P. Minute Book (1812-1819) p56 for July 1813 election reveals the use of watchboxes in Wards 10 (Heriot Row) 15 (Hart Street), 18 (The Vennel) 20 (George Square), and 23 (St. Patricks Square).
- 104 E.P. Minute Book (1812-1819) p123 details the retrenchment of the Force.
- 105 E.P. Minute Book (1812-1819) pp123 & 164 for Watching Committee Reports dated January 1815 and January 1816.
- 106 E.P. Minute Book (1812-1819) p37. The first edition of Tait's Treatise was published in 1812.
- 107 E.P. Minute Book (1812-1819) pp133-135 re meeting 12 June 1815.
- 108 E.P. Minute Book (1812-1819) pp141-143. Although an increase of up to 50 men was authorised, the Superintendant appointed only 10.
- 109 E.P. Minute Book (1812-1819) pp186-188 re shooting of a police officer in June 1816.
- 110 E.P. Minute Book (1812-1819) pp252 & 376 respectively. Serjeant Bain was awarded £1 compensation for his injury by the Commissioners whilst the seven watchmen injured received 5/- each .
- 111 E.P. Minute Book (1812-1819) pp163-164. Reports of the state of the Police in the City were made public in July 1813, January 1815, January 1816 and January 1819 - see E.P. Minute Book (1812-1819) pp53-55, pp123-128, pp162-168 and pp372-378 respectively.
- 112 E.P. Minute Book (1812-1819) p160 mentions the Committee for revising the Police Act for the first time at a meeting on 2 October 1815, although the Committee had clearly been existence for some time, and p169 re meeting 24 January 1816 directing the Police Bill to London.
- 113 E.P. Minute Book (1812-1819) pp170-172 re meetings 14 March 1816 and 1 April 1816. See also Scots Magazine (1817) pp111-114 re opposition by public bodies to alterations to the 1812 Act.
- 114 E.P. Minute Book (182-1819) p175 details the deletions to the proposed Police bill, and p177 details the Bodies consulted in the city.
- 115 52 Geo III (1816) c172 - the 1816 Act which amended the 1812 Act. Exemptions from rates for charitable, religious and educational institutions of course continued in later local government financing.
- 116 E.P. Minute Book (1812-1819) p241 re meeting 10 January 1817. Copies of the printed draft Police bill were widely circulated to the public bodies previously mentioned and also the Lord President in the Court of Session, Board of Customs & Board of Excise, University of Edinburgh, Magistrates in the City, Royal College of Surgeons, hospitals in Edinburgh, Commissioners of the Bridewell and Charity Workhouses and each Kirk Session. See Scots Magazine (1817) pp111-114 for the reports from the various public bodies in the city in support of the Police bill.
- 117 53 Geo III (1817) c33 - the 1817 Act which amended the 1812 Act.
- 118 1817 Act, Sections 1 to 8. It became competent to order the cautioner(s) to be cited to make payment of the sum contained in the Bond of Caution within 24 hours.

- 119** 1817 Act, Section 9. This was the first example of Police in Scotland accepting monetary bail.
- 120** 1817 Act, Section 12. The permanent non-elected General Commissioners are referred to as 'Official General Commissioners' in the 1817 Act.
- 121** 1817 Act, Section 14.
- 122** 1817 Act, Section 15 and E.P. Minute Book (1812-1819) p359 re specific rates introduced for each branch of service.
- 123** 1817 Act, Section 34.
- 124** 1817 Act, Section 16.
- 125** 1817 Act, Section 21.
- 126** 1817 Act, Section 31 repeating the 1805 Act, Section 29.
- 127** 1817 Act, Sections 28 & 29 respectively.
- 128** 1817 Act, Section 30. Failure to register as a broker for a Certificate of Registration resulted in a penalty not exceeding 20/-.
- 129** 1812 Act, Sections 36 to 38.
- 130** E.P. Minute Book (1812-1819) pp133-135 re resolution on 12 June 1815 to abolish City Guard
- 131** 1812 Act, Section 20 and Scots Magazine (1817) p481.
- 132** Cockburn (1856) Memorials, pp292-293
- 133** E.T.C. Records, Vol. 181 (1820) p360 and Vol. 184 (1822) p309.
- 134** Scots Magazine (1812) p723.
- 135** L.P. Minute Books (1803-1809) p306, (1809-1819) p225 and (1819-1827) p177.
- 136** L.P. Minute Book (1809-1819) p434 re Committee for Superintending the Watching Department.
- 137** L.P. Minute Books (1809-1819) p330 and (1819-1827) p153.
- 138** L.P. Minute Books (1809-1819) p314 and (1819-1827) p489.
- 139** L.P. Minute Book (1809-1819) pp133 & 193 re Overseer of Scavengers.
- 140** L.P. Minute Book (1809-1819) pp223 & 413.
- 141** L.P. Minute Book (1809-1819) p247. Sergeant John Howie received a salary of £39 per annum plus Court fees.
- 142** L.P. Minute Book (1809-1819) pp315 & 325 re resignation of Intendant Denovan.
- 143** L.P. Minute Book (1809-1819) pp326, 365 & 367.
- 144** L.P. Minute Book (1809-1819) pp396 & 399-400
- 145** L.P. Minute Book (1809-1819) pp403-405 & 407.
- 146** L.P. Minute Book (1809-1819) p434 re appointment of 15 night watchmen.

- 147 L.P. Minute Book (1809-1819) pp514 & 526.
- 148 L.P. Minute Book (1809-1819) p456 and (1819-1827) pp1 & 36 re wages of Watching Department.
- 149 L.P. Minute Book (1819-1827) pp98 & 155.
- 150 L.P. Minute Book (1809-1819) p491 re 'typhus fever'.
- 151 L.P. Minute Book (1809-1819) pp538 & 540 re appointment of Lieutenant William Ross.
- 152 L.P. Minute Book (1809-1819) pp511 & 546 and (1819-1827) pp26-27 & 52.
- 153 David Roberston, A History Of The High Constables Of Edinburgh (Edinburgh, 1924), Chapter 11 - Notes on the Constables of Leith. The two Minute Books of the Society of Leith Constables from 1810 to 1822 referred to, no longer appear extant.
- 154 Robertson (1924) High Constables, Chapter 11.
- 155 Records of the Justices of the Peace for the County of Midlothian 1810-1827 - See SRO JP4 2/2; and Sederunt of Commissioners of Supply 1813-1819 & 1819-1837 - See SRO CO2 1/6 & 1/7.
- 156 Scots Magazine (1813) pp111-120 & 156. See also Cockburn (1856) Memorials, p231 re Society for the Suppression of Begging formed in 1812.
- 157 Scots Magazine (1814) p9.
- 158 E.P. Minute Book (1812-1819) p128 re January 1815 report on common begging.
- 159 1812 Act, Sections 83 & 85.
- 160 1812 Act, Section 86. Section 87 provided that all fines were to be forwarded to the Collector and Section 94 provided that fines collected had to be applied towards the expenses incurred by detaining prisoners in the watchhouses, Tolbooth or Bridewell.
- 161 Bailie Court Fines and Fees 1800-1822, held at Edinburgh City Archives, Box 210, Bundle 579. Although so catalogued such fines and fees pertain to the Police Court 1812-1822 only.
- 162 E.P. Minute Book (1812-1819) p53.
- 163 E.P. Minute Book (1812-1819) p126.
- 164 Scots Magazine (1813) pp429-438.
- 165 Scots Magazine (1814) p553.
- 166 Scots Magazine (1815) pp26-30.
- 167 Scots Magazine (1815) p149.
- 168 Scots Magazine (1816) p869.
- 169 Scots Magazines (1816) p153, (1818) pp49-54 and (1819) p273.
- 170 Scots Magazine (1822) p268.
- 171 Scots Magazine (1819) pp49-53. See also Account of Trial, Sentence and Execution of Robert Johnston, 30 December 1818, a 24 page publication - Edinburgh Central Library.

- 172 Scots Magazine (1820) p77 for High Treason trials for Scotland commenced 23 June 1820 at Stirling. See also Cockburn (1856) Memorials, pp280-289 for his account of the trials for sedition.
- 173 E.P. Minute Book (1812-1819) p123, p124 & p167 respectively.
- 174 E.P. Minute Book (1819-1821) p38 & p39 re the appointment of the Committee on Receipts and Expenditure, and p40 re the appointment of the Committee on the Statement of the Superintendent.
- 175 E.P. Minute Book (1819-1821) pp49 to 52.
- 176 E.P. Minute Book (1819-1821) pp59-60.
- 177 E.P. Minute Book (1819-1821) pp61-70. Quotes from Murray's letter are taken from p61, p65, p67 and p68 respectively.
- 178 E.P. Minute Book (1819-1821) p82 re meeting 30 June 1820 and pp85-94 re report from Committee on the Statement of the Superintendent, quotes therein from p85, p89 and p92 respectively.
- 179 E.P. Minute Book (1819-1821) p94. See also Scots Magazine (1820), pp274-276, p280 & pp376-378 on the Radical War;  
See also Mathieson (1916) Church And Reform, pp145-160; and TM Devine and Gordon Jackson (editors), Glasgow Volume I: Beginnings To 1830, (Manchester, 1995), Chapter 7 on the Guardianship of the Community: Civic Authority Prior to 1833.
- 180 E.P. Minute Book (1819-1821) p148 re meeting 8 July 1820 p149 and p150 re statements from Messrs Gibson & Inglis.
- 181 E.P. Minute Book (1819-1821) pp151-152 re report from Committee on Receipts and Expenditure considered at a meeting 8 July 1820, p153 re quote from Superintendent Brown.
- 182 E.P. Minute Book (1819-1821) p182 & p183 re motion of Inglis and p184 re motion of Stenhouse.
- 183 E.P. Minute Book (1819-1821) p200-p206 re opinion of the functionaries minuted at the meeting 4 September 1820. The detailed reasons given under three heads, legally if not morally absolved Superintendent Brown from any criminal conduct; p236 re meeting 6 November 1820 and p258 re meeting 27 November 1820, pp261 & 262 re protest document lodged by Ramsay and pp263-265 re protest lodged by Brown.
- 184 E.P. Minute Book (1819-1821) pp386-387 & (1821-1823) pp131-133. See also Cockburn (1856) Memorials, pp336-338 narrates of course a Whig view of the struggle to remove Superintendent Brown.
- 185 E.P. Minute Book (1821-1823) p3 re withdrawal of Sheriff Depute Duff from Watching Committee in October 1821.
- 186 E.P. Minute Book (1819-1821) pp207 & 428 re Committee to draft new Police bill which was presented in October 1821; (1821-1823) p4 re draft Police bill approved by elected Commissioners; and p85 which details the resolutions of the Incorporated Bodies on the draft Police Bill sponsored by the Town Council..
- 187 Scotsman (No. 261) dated 19 January 1822 pp16-22 re debate on Town Council Police bill. See also Mathieson (1916) Church And Reform, pp186-188.
- 188 E.P. Minute Book (1821-1823) p94 for Whig General Commissioners petition against Town Council Police bill.
- 189 E.P. Minute Book (1821-1823) p126 re resignation letter dated 8 April 1822 from Superintendent Brown.



- 190 Cockburn (1856) Memorials, p337 narrates a Whig view of the struggle to remove Superintendent Brown. See also E.P. Minute Book (1821-1823) pp131-133 re letter from Lord Provost to have Committees conjoin; p160 for renewed attendance of Sheriff Depute Duff at meeting 13 June 1822; and p182 re arbitration agreement.

## Chapter Five - THE NEW POLICE AND SYSTEM OF POLICE 1822-1833

- 1 The 24.43% increase in rental value figures are extracted from a Return of Rental Values between 1819-1833 within E.P. Minute Book (1832-1834) p436.
- 2 Henry Cockburn, Memorials Of His Time, (Edinburgh, 1856), p372-373 re great mercantile depression and bankruptcies. See also AG Cummings and TM Devine (editors), Industry, Business And Society In Scotland Since 1770, (Edinburgh, 1994), Chapter 7 on the Emergence of Edinburgh as a Financial Centre by Charles W Munn, pp131-132 who reveals that Parliamentary enquiries in 1826 made public the virtues of the Scottish banking system which could survive the crisis.
- 3 Lawrence James Saunders, Scottish Democracy 1815 - 1840: The Social And Intellectual Background, (Edinburgh, 1950), p95; and NSA - Volume 1 Edinburghshire (1845) p710
- 4 Scots Magazine (1817) p83 re subscriptions commenced in August 1817 for railway between Edinburgh and Leith. See also NSA - Volume 1 Edinburghshire (1845) pp755-756 re history of railway developments.
- 5 Saunders (1950) Scottish Democracy, p84
- 6 Scots Magazine (1822) pp245-250 re Royal Visit of HM George IV to Edinburgh in August 1822; and (1824) pp470-475 re third Edinburgh Music Festival in October 1824
- 7 See Bibliography - Edinburgh City Archives in respect of Records of General Commissioners of Police for Edinburgh.
- 8 2 & 3 Will IV (1833) c65 - The Representation of the People (Scotland) Act 1832, Schedule E allowed one M.P. for the combined towns of Leith, Portobello & Musselburgh; and 3 & 4 Will IV (1833) c77 - The Parliamentary Burghs (Scotland) Act 1833, enabled non-Royal Burghs like Leith, Portobello & Musselburgh to establish Town Councils on the model contained in 3 & 4 Will IV c76 - The Royal Burghs (Scotland) Act 1833.
- 9 E.P. Minute Book (1823-1827) p403 re Bridewell commitments.
- 10 3 & 4 Will IV (1833) c46 - An Act to enable Burghs in Scotland to establish a general system of Police.
- 11 Scots Magazine (1822) pp243-250 re Police of Edinburgh.
- 12 Scotsman (No. 261) dated 19 January 1822, p17.
- 13 A Letter To The Inhabitants Of Edinburgh On The New Police Bill, submitted anonymously by a fellow Citizen, printed by Constable & Co., 68 pages (1822) - Edinburgh Central Library.
- 14 Scotsman (No. 263) dated 2 February 1822, p36; and (No. 266) dated 23 February 1822, p64.
- 15 Scotsman (No. 280) dated 1 June 1822, p170.
- 16 E.P. Minute Book (1821-1823) p162 & p183 re appointment of Captain Robison as Superintendent in June 1822.

- 17 E.P. Minute Book (1821-1823) pp190-192 and Edinburgh Advertiser (No. 6124) dated 6 August 1822 p87 re details of coal weighing arrangements on outskirts of City. Section 76 of the 1812 Act had created offences for unweighed coals in the City.
- 18 1822 Act, Sections 73 & 74 re licensed premises; Sections 75 & 76 re brokers; Sections 82 & 83 re street cleansing; Sections 86 to 89 re lighting; Section 101 re pedestrian and vehicular traffic; and Section 111 re hay and straw.
- 19 1822 Act, Section 91 re street names and numbers; Sections 92 & 93 re foot pavements; Sections 95 to 99 re soil pipes and sewers ; Section 100 re street repairs; and Section 102 re projecting signs.
- 20 1822 Act, Section 78 re contagious diseases; Section 89 re escapes of gas; Section 90 re river pollution; Section 94 re smoke pollution; and Sections 138 & 139 re duration of Act.
- 21 1822 Act, Sections 138 & 139.
- 22 1822 Act, Section 5.
- 23 1822 Act, Sections 6 to 21 re election of Residential Commissioners.
- 24 E.P. Minute Book (1821-1823) pp156-158 and Edinburgh Advertiser (No.6142) dated 8 October 1822 p238 re elections in June 1822. Although the same Minute Book, minuted meetings under the 1822 Act commencing 8 July start from p1 after ending on p192 midway through the volume. Thus E.P. Minute Book (1821-1823) pp3-4 list new General Commissioners and elected Residential Commissioners in July 1822.
- 25 E.P. Minute Book (1821-1823) pp40-74 and Edinburgh Advertiser (No. 6142) dated 8 October 1822 p238 re Police, Lighting and Cleansing, Obstructions on the Street and Miscellaneous regulations codified under the 1822 Act.
- 26 E.P. Minute Book (1821-1823) p81 & pp91-92 re Visiting Committee arrangements.
- 27 E.P. Minute Book (1821-1823) pp132-133 and E.P. Minute Book (1823-1827) p49 re ad hoc committees appointed to examine Visiting Books.
- 28 E.P. Minute Book (1823-1827) pp83-91 re Committee Visiting Books Report May 1824; and p212 re new Committee on Bye-Laws and Visiting Books formed in July 1825.
- 29 E.P. Minute Book (1823-1827) p268 & 271 re Edinburgh Times seeking access to Board meetings.
- 30 E.P. Minute Book (1823-1827) pp373-374 re Scotsman newspaper access to Board meetings in June 1827. See Cockburn (1856) Memorials, p267 re Charles MacLaren.
- 31 E.P. Minute Book (1827-1832) p164 re standing committees appointed in July 1829.
- 32 Cockburn (1856) Memorials, p 170 and also E.P. Minute Book (1827-1832) p168, p281 & p333 re his election as Police Commissioner.
- 33 1822 Act, Section 59 to 63 re provisions for appointment and dismissal of the Superintendent. Section 64 laid down the limits of his salary.
- 34 1822 Act, Sections 66 to 68 re duties of the Superintendent.
- 35 E.P. Minute Book (1821-1823) p4 & p10 (midway in volume) re confirmation of Superintendent Robison in July 1822 at a salary of £300 per annum.
- 36 E.P. Minute Book (1821-1823) pp40-49 re Watching Regulations published in September 1822. Regulation 4 on p42 required quarterly reports from the Superintendent.
- 37 E.P. Minute Book (1821-1823) p96 & p119 re Superintendent Reports in November 1822 and January 1823.

- 38 E.P. Minute Books (1823-1827) p9 & p226 re Superintendent salary; (1827-1832) p33 & p47; and E.P. Watching Committee Book (1828-1829) pp25-27 re Mercury newspaper claim and dismissal of Superintendent Robison.
- 39 E.P. Minute Book (1827-1832) p47 re appointment of Lieutenant Kirkwood as interim Superintendent; pp65-67 re appointment of Superintendent Stuart and Captain Lieutenant rank in April 1828; and p180 re appointment of 4th Lieutenant.
- 40 E.P. Minute Books (1821-1823) pp81-83 (first half) re petition from lieutenants January 1822, p81 (second half) re reinstatement of a 3rd lieutenant in October 1822; and (1827-1832) p180 re reinstatement of a 4th lieutenant in August 1829.
- 41 E.P. Minute Book (1819-1823) p345; (1823-1827) p259, p289 & p329; and E.P. Finance Committee Book (1820-1832) p320 re appointment of lieutenants.
- 42 1822 Act, Section 108 & E.P. Minute Book (1823-1827) p193 re example of rewards to lieutenants in June 1825.
- 43 1822 Act, Sections 60 & 63 re appointment and duties of Police officers and Section 71 re vagrants and beggars.
- 44 1822 Act, Section 69 re duties of serjeants in respect of lighting and cleansing.
- 45 Published Instructions, Orders, Regulations and Bye-Laws for the Police of the City of Edinburgh (1822) - Central Library, Regulations 1, 6 & 7 relating to Watching Department.
- 46 Published Instructions (1822), *ibid.*, regulations 8 & 9 relating to Watching Department.
- 47 Published Instructions (1822), *ibid.*, regulations 10, 11, 12 & 13 relating to Watching Department.
- 48 E.P. Minute Books (1821-1823) p79 & p199; and (1823-1827) p310 for major manpower increases in October 1822, January 1823 and July 1826 respectively.
- 49 E.P. Watching Committee Book (1827-1839) p35 and Minute Book (1827-1832) pp108-111 re estimates for year 1828 to 1829 which details for the first time the role of the 'Criminal Officers' in May 1828.
- 50 One of the early detectives of Edinburgh City Police James McLevy from Co. Armagh who joined the Force in 1830 as a watchman. After 30 years service, in 1861, he published two volumes of short stories about his investigations, viz.;  
 - Curiosities of Crime In Edinburgh, and  
 - The Sliding Scale of Life  
 extracts from which are edited and published by George Scott-Moncrieff, James McLevy - The Casebook Of A Victorian Detective (Edinburgh, 1975).
- 51 E.P. Minute Book (1827-1832) pp294-296 re estimates for year 1830 - 1831 which distinguishes roles and length of service among serjeants and watchmen.
- 52 E.P. Minute Books (1821-1823) p19 re batons purchased, and (1827-1832) p84 re carrying lanterns. The police lantern burned whale oil tendered at £30 per ton. Fines were imposed on anyone maliciously breaking Police lanterns.
- 53 E.P. Minute Book (1827-1832) pp207-208 re letter dated 11 December 1829 from James L'Amy suggesting standard uniforms for officers.
- 54 E.P. Minute Book (1827-1832) p346 & p354; and E.P. Watching Committee Book (1827-1839) p151 re dress for daymen and issue of greatcoats; and The Police Recorder on Life in Edinburgh (No. 22) dated Friday September 9, 1832 for description of the new Police uniform which were costed at £1-17-0d each. The Police Recorder appears to be a short lived daily pamphlet type newspaper, published for few months in 1832 by Forbes & Co., Printers, 171 Cowgate, Edinburgh. The Recorder appears to follow an earlier series known

as *The Police Intelligence on Life in Edinburgh* published between August 1831 and June 1832. Both editions contained details of cases heard before the Police and Sheriff Courts. Surviving copies are retained at Edinburgh Central Library.

- 55 E.P. Minute Books (1821-1823) p19 re civilian employee at Police Office; and (1823-1827) p75 and (1827-1832) p250 & pp 294-296 re employment of turnkeys.
- 56 1822 Act, Sections 30, 31, 33, 42, 45, 46, 47, 48, 49 & 50 re the general duties of surveyors, clerks and collectors.
- 57 1822 Act, Section 35 and E.P. Minute Book (1821-1823) p32 & p181 re role and appointment of a Surveyor; and p25 re appointment of Collector.
- 58 1822 Act, Sections 32, 34, 36, 37, 38 & 39 re method of calculating rates and assessments.
- 59 E.P. Minute Book (1823-1827) p121 re debts.
- 60 E.P. Minute Book (1827-1832) p34 & pp36-41 re role of clerks.
- 61 1822 Act, Sections 79 to 81 re appointments and duties of Inspector of Lighting and Cleansing; sections 82, 83 & 85 re cleansing and Sections 86 to 88 re lighting obligations.
- 62 E.P. Minute Books (1821-1823) p69 & pp136-141; and (1823-1827) pp294-300 & pp310-311 re appointment of Assistant Inspector, reprimand to Inspector Logan, cautions to Inspector Logan and Dr Black and appointment of Inspector Ramsay in 1826 respectively.
- 63 Scots Magazine (1813) p83 re 'CIVIS' article.
- 64 Scots Magazine (1814) pp16-18 re letter from a Pat Walker, suggesting a Regiment of Fire Engines.
- 65 E.P. Minute Book (1823-1827) pp138-143 re Fire Committee Report 30 August 1824; pp148-149 re funding agreements 11 October 1824; and p153 re appointment of James Braidwood as Superintendent of Fire Engines at £50 per annum. See also Scots Magazine (1824) p120 re first great fire in High Street.
- 66 Scots Magazine (1824) pp755-758 re second great fire in High Street.
- 67 E.P. Minute Book (1823-1827) p177, p180 & p225 re reforms to Fire Engine Department.
- 68 E.P. Minute Book (1823-1827) p228 & p264, and (1827-1832) p58, p158 & p411 re service of Fire Master James Braidwood.
- 69 E.P. Minute Book (1821-1823) pp4-6 re discussions on juvenile delinquency for 1822 Police Bill.
- 70 E.P. Minute Book (1823-1827) p53 & pp58-60 re resolution for House of Refuge for juvenile delinquents.
- 71 E.P. Minute Book (1823-1827) pp128-136 re plan for House of Refuge. See also Robert Chambers, *Traditions of Edinburgh* (1824) p70 & pp336-343 re previous history and use of Queensberry House as a barracks; and Andrew Coyle, *Inside: Rethinking Scotland's Prisons* (Edinburgh, 1991), Chapter 2 on William Brebner.
- 72 E.P. Minute Book (1827-1832) pp359-361 & pp363-367 re Committee to prevent cholera and establishment of the Board of health in November 1831.
- 73 Scotsman newspapers dated 28 January and 24 November 1832 respectively re cholera mortalities. The Scots Magazine (1818) p230 reported 46 deaths from cholera in Edinburgh during the 1817/18 winter. See also Saunders (1950) *Scottish Democracy*, pp176-191 on The Epidemics.

- 74 E.P. Minute Book (1821-1823) p111 & p149 under 1812 Act, and p21 & p27 re Committee for New Police Office and purchase of old Royal Bank of Scotland premises.
- 75 E.P. Minute Book (1821-1823) p75 & p112 re plans for conversion vacated Royal Bank of Scotland at Old Stamp Office Close.
- 76 E.P. Minute Book (1823-1827) pp74-77 re Regulations for Main Police Office issued April 1824 and p92 re regulations printed in May 1824.
- 77 E.P. Minute Books (1823-1827) pp356-357 re hanging in Police cell, and (1827-1832) pp250-256 re new Regulations for Main Police Office issued April 1830 and pp274-276 re report regarding the death of a Mrs Watson whilst in Police custody.
- 78 E.P. Minute Books (1823-1827) p 17, p63, p65, p123 & pp170-173; and (1827-1832) p236; and E.P. Watching Committee Book (1827-1839) pp55-56, p81 & p84 re district watchhouses.
- 79 Although there was no minuted discussion about the watchboxes after 1822, replacements could have been a matter of routine under miscellaneous expenditure in the yearly accounts.
- 80 E.P. Minute Book (1827-1832) pp252-256 re Regulations for the Edinburgh Police Office. See printed Regulations numbered 1 to 20 dated April 1830: Edinburgh Central Library.
- 81 1822 Act, Section 108, and E.P. Minute Books (1823-1827) p46, p168, pp188-191; and (1827-1832) p136 & p296 re pension provisions for officers injured or killed on duty.
- 82 E.P. Minute Books (1823-1827) p168 re petition of Joseph Boyle, James Sutherland and John Muir, nightwatchmen seeking reinstatement in January 1825 after being acquitted of the murder of Terence Delancey, scavenger; p177 re complaint against Serjeant John Stewart dismissed February 1825 for assault on James Raeburn, broker in Cowgate, with no further action; p243, p245 & p289 re complaint against and dismissal of Lieutenant Baird; and (1827-1832) p74 re authorisation to Superintendent to levy fines in watchmen from June 1828. See SRO AD14 24/69 for murder case against three nightwatchmen.
- 83 E.P. Minute Book (1821-1825) p15, pp17-19 & p24 and Edinburgh Advertisers (No. 6124 & 6127) dated 9 & 16 August 1822 re Royal Visit security arrangements. See also Scots magazine (1822) pp245-250 & pp499-513; Robert Mudie, A Historical Account Of His Majesty's Visit To Scotland (Edinburgh, 1822); and Sir Walter Scott, Hints Addressed To The Inhabitants Of Edinburgh And Others In Prospect Of H.M. Visit (Edinburgh, 1822).
- 84 1822 Act, Sections 110-120 re functioning of Police Court and prescribed penalties.
- 85 E.P. Minute Book (1827-1832) pp272-274, p276, p283 & p286 re need and progress of 1826 Amendment Act.
- 86 7 Geo IV (1826) c115 - referred to as the 1826 Amendment Act.
- 87 E.T.C. Records, Vol. 189 (1823) p138 & p 203; Vol. 192 (1825) p92 & p113; and Vol. 197 (1826) p195.
- 88 E.T.C. Records, Vol. 203 (1828) p62 re Act of Council dated 19 March 1828 for Instructions and regulations in respect of the Society of High Constables of Edinburgh.
- 89 E.T.C. Records, Vol. 203 (1828) p62 and S.H.C. Minute Book, iv pp173-176.
- 90 James D Marwick, Sketch Of The History Of The High Constables Of Edinburgh (Edinburgh, 1865) pp235-239.
- 91 E.T.C. Records, Vol. 209 (1831) p335 and Marwick (1865) *ibid.*, p242.
- 92 L.P. Minute Book (1819-1827) p177 & p367.

- 93 L.P. Minute Book (1819-1827) pp5-9, p132, p202, p266 & p454.
- 94 L.P. Minute Book (1819-1827) p148 and L.P. Scroll Book (1828-1834) pp5-9 & p22.
- 95 L.P. Minute Book (1819-1827) p319 & p410.
- 96 L.P. Minute Book (1819-1827) p226 & p426.
- 97 L.P. Minute Book (1819-1827) p454 & pp460-461.
- 98 7 Geo IV (1827) c112 - the Leith Municipal and Police Act 1827; L.P. Minute Book (1819-1827) p477 & pp504-507; and L.P. Scroll Book (1828-1834) p7, p19 & p20.
- 99 1827 Act, Sections 2, 3, 16, 18 to 34.
- 100 1927 Act, Sections 4 to 6. Some Leith Sheriff Court records for the period 1828 to 1838 are still extant - see SRO SC69/15/16. 1 & 2 Vic (1838) c119 abolished the Leith Sheriff Substitute office but created an additional Sheriff Substitute for the county.
- 101 1927 Act, Sections 133 to 145. SRO SC69/16 comprises bundles of papers each listing persons committed for trial at Leith between 1831-1837.
- 102 1827 Act, Sections 7 to 9.
- 103 1827 Act, Sections 49 to 51 and L.P. Scroll Book (1828-1834) pp17-33 detailed within annual accounts for 1827-28.
- 104 L.P. Scroll Book (1828-1834) pp22-23, p27, p290, p297 and p320.
- 105 1827 Act, sections 84 to 86.
- 106 David Robertson, A History of the High Constables of Edinburgh (Edinburgh, 1924) Chapter 11 - Notes on the Constables of Leith. The minute books of the Society of Leith Constables are no longer extant.
- 107 Midlothian JP Minute Book (1810-1827) p357 & p376 and Scroll Book (1826-1836) unnumbered pages for petitions to be constables on 1 May 1826, 3 October 1827 and 1 October 1833.
- 108 Midlothian JP Minute Book (1810-1827) p371, pp533-534 and Scroll Book (1826-1836) unnumbered page dated 17 November 1829.
- 109 Midlothian JP Minute Book (1810-1827) pp321-324 re King's Birthday riot, pp337-340, pp337-340 re appointment of Edinburgh Police as County Constables all of whom are named, pp469-471 & pp509-524 re reports on the Bridewell.
- 110 See Midlothian JP Scroll Book (1826-1836) - SRO JP4 2/3; and Sederunt of Commissioners of Supply (1819-1837) - SRO CO2-1/7. 2 & 3 Vic (1839) c65 - an Act to amend the mode of assessing the Rogue Money in Scotland required action by not less than ten Commissioners. A County Police Sederunt Book (1840-1854) records the efforts to reform the County Police by a Committee of Commissioners of Supply - SRO CO2-2/5.
- 111 E.P. Minute Book (1823-1827) pp69-70.
- 112 E.P. Watching Committee Minute Book (1827-1839) p130 & p147.
- 113 E.P. Minute Book (1823-1827) p121 re Finance Committee Report (August 1824).
- 114 E.P. Minute Books (1823-1827) p52 and (1827-1832) p138 & p228. See also Records of the Lord Advocates Department - SRO AD14; and Scots Magazine (1825) p329 which refers to the total number of both civil and criminal cases dealt with by Sheriffs in Scotland.

- 115 E.P. Minute Book (1823-1827) p54 & p70.
- 116 E.P. Minute Book (1823-1827) p164 & p195.
- 117 Justiciary Reports 1826-29 (Syme) pp345-373 for account of trial, and also Scotsman newspaper dated 30 January 1829.
- 118 Scots Magazine (1825) Part II p367 & p499.
- 119 E.P. Minute Book (1823-1827) pp96-105 re Joint Committee Report on King's Birthday Riot dated 26 May 1824.
- 120 Scots Magazine (1823) Part II p377.
- 121 Scots Magazine (1825) Part I p119.
- 122 See Henry Cockburn (1856) Memorials, pp404-407, who concludes his Memorials with an account of the main political events in 1830, ending with his appointment as Solicitor General for Scotland; and Mathieson (1916) Church And Reform, Chapter V on The Reform Bills, 1827 - 1834.
- 123 E.P. Minute Book (1827-1832) p340 re Committee for new Police bill chaired by Donald Fisher, Preses to Solicitors of Supreme Courts, & pp369-370 re draft bill presented in December 1831.
- 124 E.P. Minute Book (1827-1832) pp382-386, & pp397-407 re discussions on Police bill in 1832; and p410 & pp412-419 on opposition to the Police bill from the Society of Writers to the Signet.
- 125 2 & 3 Will IV (1832) c87 - An Act for altering and amending certain Acts for regulating the Police of the City of Edinburgh and the adjoining Districts, and for other Purposes relating thereto. See also 4 & 5 Will IV (1834) c76 which continued the 1832 Act.

## Chapter Six - COMPARATIVE DEVELOPMENTS ELSEWHERE IN THE UNITED KINGDOM AND CONCLUSIONS

- 1 For example 5 & 6 Will IV (1835) c75 - for the Regulation of Municipal Corporations in England and Wales, in Schedule E list 29 towns with watching legislation existing prior to 1800. See Scots Magazines (1824) p117 re trial of Alexander Guthrie for murder in Pencaitland; and (1825) p501 re trial of Robert Murray for robbery in Linlithgow. Lavender gave evidence of Murray being a convicted felon.
- 2 Whilst the first edition of P. Colquhoun, A Treatise On The Police Of The Metropolis, containing a detail of the various crimes and misdemeanours and suggesting remedies for their prevention was published in 1795, the seventh and considerably enlarged last London edition was published in 1806. The quotation forms the first paragraph in the preface. See also Sir Leon Radzinowicz, History Of The English Criminal Law (1948-68), (London, 1956), 4 Vols.
- 3 13 Edward I (1285) c4 - Statute of Winchester;  
5 Edward III (1331) c14 - re Night Walkers and Suspected Persons;  
34 Edward III (1360) c1 - re Justices of the Peace; and  
27 Eliz1 (1583) c13 - re Act for the following of Hue and Cry.  
See also Clive Emsley, The English Police: A Political And Social History (London, 1991), Chapter One which describes Policing Before the Police.
- 4 10 Geo II (1737) c22 - Nightly Watch and Bedles in the City of London  
See Colquhoun (1806) Treatise, p415 re role of the beadles; and see  
Donald Rumblelow, I Spy Blue - The Police & Crime In The City Of London From Elizabeth I To Victoria (London, 1971).

- 5 See Radzinowicz (Vol II) pp263-269 and (Vol III) History, pp54-62 for history of Bow Street Police Office and Runners; and also Gilbert Armitage, The History Of The Bow Street Runners (London, 1932).
- 6 29 Geo II (1756) c25 & 14 Geo III (1774) c90 - re Constables for City and Liberty of Westminster.
- 7 Colquhoun (1806) Treatise, Chapter 19 on the Municipal Police of the Metropolis pp565-601.
- 8 32 Geo III (1792) c53 was initially passed for 3 years, but later extended.
- 9 39 & 40 Geo III (1800) c87 - An Act for the more effectual Prevention of Depredations on the River Thames.
- 10 Colquhoun (1806) Treatise, Chapter 14 on the Detection of Offenders and Chapter 17 for discussion of the 1792 Act and the Criminal Police of the Metropolis.
- 11 Colquhoun (1806) Treatise, Chapter 18 on the Proposed System of Criminal Police for London.
- 12 See Radzinowicz (Vol III) English Criminal Law, pp58-62 re Bow Street Horse Patrol; and Statutes 36 Geo III (1796) c75; 42 Geo III (1802) c76; 47 Geo III (1807) c42; 51 Geo III (1810) c119; and 54 Geo III (1813) c37.
- 13 1 & 2 Geo IV (1821) c118; 3 Geo IV (1822) c55; and 6 Geo IV (1825) c21 - re consolidation of the various Police Offices in the Metropolis and new regulations.
- 14 10 Geo IV (1829) c44 - An Act for improving the Police in and near the Metropolis; 6 Geo IV (1825) c21, *ibid.*, was extended by 10 Geo IV (1829) c45.
- 15 Seamus Breathnach, The Irish Police From Earliest Times To The Present Day (Dublin, 1974), pp1-23.
- 16 Stanley H Palmer, Police And Protest In England And Ireland 1780-1850 (Cambridge, 1988), p535. Palmer essentially adopts the view of Frederic Maitland Justice And Police (London, 1885) quoted on p83 that 'a full history of the new police would probably lay its first scene in Ireland, and begin with the Dublin Police Act passed by the Irish Parliament in 1786'.
- 17 Palmer (1988) Police And Protest, pp119-124 re 26 Geo III (1786) c24 - the Dublin Police Act 1786. The three magistrates as Police Commissioners received salaries of one at £500 and two at £300. Constables earned £30 per annum (reduced to £20 in 1788) and watchmen about £18 per annum (at 1/- per day).
- 18 Palmer (1988) Police And Protest, pp124-128.
- 19 35 Geo III (1795) c36 - the Dublin Police Act 1795.
- 20 36 Geo III (1796) c30 - re amendment Dublin Police Act 1796, and see Palmer (1988) Police And Protest, pp134-136.
- 21 39 Geo III (1799) c56 - re the Dublin Police Act 1799 was amended by 40 Geo III (1800) c62 which was one of the last Acts of the Irish Parliament.
- 22 See Palmer (1988) Police And Protest, pp142-143 and pp148-150 re the 1799 Act arrangements. During winter months Dublin Police were increased to 38 watch constables and 600 watchmen.
- 23 48 Geo III (1808) c140 - re Dublin Police Act 1808 and see Palmer (1988) Police And Protest, pp152-159 for the working arrangements.



- 24 Sir John Sinclair, Analysis Of The Statistical Account Of Scotland (Edinburgh, 1825), pp55-64 for statistics on Glasgow.  
See George Eyre-Todd, History Of Glasgow (Glasgow, 1934) Volume 3;  
TM Devine & Gordon Jackson (editors) Glasgow: Volume 1, Beginnings To 1830, (Manchester, 1995); AJG Cummings & TM Devine (editors), Industry, Business And Society In Scotland Since 1700 (Edinburgh, 1994), Chapter 10 entitled Urbanisation and the Civic response: Glasgow, 1800 - 30 for a description of political, economic and social events in early 19<sup>th</sup> century Glasgow by TM Devine.
- 25 Sir James A Robertson, A Collection Of Writings On The Scottish Police Service (circa 1973), pp40-41. Robertson was Chief Constable of the City of Glasgow Police 1960-1971 and this Collection was presented to the Scottish Police College, Tulliallan by his widow, after his death in 1990. See also Eyre-Todd (1934) History Of Glasgow, Chapters 36 & 46; Devine & Jackson (1995) Glasgow: Volume 1, Chapter 7 entitled The Guardianship of the Community: Civic Authority Prior to 1833, by Irene Maver; John Ord, Origins And History Of The Glasgow Police (Glasgow, 1906); and Simon Berry & Hamish Whyte, Glasgow Observed (Glasgow, 1987) pp29-32 for workings of the Glasgow Police Act 1800.
- 26 Geo III (1800) c88 - the Glasgow Police Act 1800, Sections 46 & 47 allowed the Magistrates and Commissioners to appoint watchmen and other officers for 'guarding, patrolling, and watching' which is the first time the basic police role is mentioned in legislation.  
See Devine & Jackson (1995) Glasgow: Volume 1, p250 for reference to a Police Board in Edinburgh; and Cummings & Devine (1994) Industry, Business And Finance, p187.
- 27 Robertson (1973) Collection Of Writings, pp43-46 re Glasgow Police Act 1800; and Andrew Coyle, Inside: Rethinking Scotland's Prisons (Edinburgh, 1991) pp29-39 on William Brebner who was Governor of Glasgow Bridewell between 1808 - 45.
- 28 E.P. Minute Book (1805-1812)p115; and see Devine & Jackson (1995) Glasgow: Volume 1, pp254-255 for number of prosecutions in 1820 and appointment of resident Sheriff.
- 29 47 Geo III (1807) c29, 1 & 2 Geo IV (1819) c48 and 10 Geo IV (1830) c92 amended and continued the Glasgow Police Act 1800.  
See also Douglas Grant, The Thin Blue Line (Glasgow, 1973) for an anecdotal account of early Glasgow Police history; Scots Magazine (1807) p28 for description of the 'stationary' system of Glasgow Police as compared to the patrol system of Edinburgh Police; and Devine & Jackson (1995) Glasgow Volume 1, pp252-253 re influence of Dr Thomas Chalmers.
- 30 Charles Reith, A New Study Of Police History (London, 1956), p122.
- 31 TA Critchley, A History Of Police In England And Wales 900-1966 (London, 1967), p21.
- 32 Colquhoun (1806) Treatise. Preface to 7<sup>th</sup> edition p4.
- 33 See Scots Magazine (1802) pp828-831 re Article on the late Robberies in Edinburgh which gave local cause for concern; and  
Clive Emsley, Crime And Society In England 1750-1900 (London, 1987) who provides a useful view of research into rising crime during the early 19<sup>th</sup> century.
- 34 R Storch, 'The Plague Of Blue Locusts: Police Reform And Popular Resistance In Northern England 1840-57' in International Review Of Social History, 20, p75. The same ideas are expounded more recently in Policing Rural Southern England Before The Police 1830-1856 in Douglas Hay & Frances Snyder (editors), Policing And Prosecution In Britain 1750-1850 (Oxford, 1989), Chapter 5.
- 35 Kit Carson & Hilary Idzikowska, 'The Social Production Of Scottish Policing 1795-1900' in Hay and Snyder Policing And Prosecution (1989), Chapter 6 and quote p293.  
See also Victor Bailey (editor) Policing And Punishment In Nineteenth Century Britain (London, 1981).
- 36 Alan Silver, The Demand For Order In Civil Society: A Review Of Some Themes In The History Of Urban Crime, Police, And Riot, p4, p12 & p21 - found in David J. Bordha (editor) The Police: Six Sociological Essays (New York, 1967).

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- 45 See D Philips, A New Engine Of Power And Authority: The Institutionalisation Of Law Enforcement In England 1780-1830 in Gatell, Lenman & Parker (editors) Crime And The Law (London, 1980).  
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- 46 E.P. Minute Book (1805-1812) p92 & p108 re Committee (established in December 1806) to revise the Police which reported in February 1807; and p142 on decision to have jurisdiction of the Police Court revert to the existing Magistrates.
- 47 E.P. Minute Book (1805-1812) p117 & p144 re request to Government for financial assistance in March 1807 which was refused as late as May 1809. See also Edinburgh Advertiser (No. 5018) dated 31 January 1812, p75 re alarm machines advertised by

Thomas Hay, ironmonger. Although the advertisement referred to the fitting of 'neat' mechanical devices to doors and windows, there may well have been some electrical current involved in the system because the noise alarm could be set for any fixed length of time.

- 48** E.P. Minute Book (1812-1819) pp67-68 re review of Edinburgh and Glasgow Police in 1813. Whilst Edinburgh had the proportion of Police to population at 1:550, Dublin had 1:238 in 1808, and London only achieved 1:502 in 1831 - see Palmer (1988) Police And Protest, Table 4.2 on p157.
- 49** E.P. Minute Book (1812-1819) p163 re conduct and deployment of officers in January 1816, and p360 re further request to Government for financial assistance in November 1818, which was again refused; and see Edinburgh Advertiser (No. 6137) dated 20 September 1822 for published Town Council accounts.
- 50** See Palmer (1988) Police And Protest, Chapter 4 on the Irish police experiment culminating in the Dublin Police Act 1808 which is claimed to be the origin of modern civil Police and which influenced the establishment of London Metropolitan Police. See also Emsley (1991) The English Police, pp24-25 who repeats this contention.

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**POSTSCRIPTUM:** The printed primary works referred to are located in the National Library of Scotland and Edinburgh City Archives, whilst printed secondary works on the Police can be found at the Police Colleges at Bramshill and Tulliallan.

Appendix A



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**(NOTE:)**

## Hobbies